

## **PREFACE**

The Kentucky Department of Criminal Justice Training is pleased to provide, as part of its mission, the 2017 version of the Kentucky Law Enforcement Discipline Manual.

Issues associated with law enforcement discipline systems are complex and often not easily understood by the officials who must deal with them. The disciplinary process involves taking complaints, investigation of such complaints, conducting a disciplinary hearing, and reaching a determination of a disciplinary outcome. This Manual was developed to guide and assist law enforcement personnel in handling some of these matters.

The Manual was produced by the staff of the Legal Training Section.

Statutory and non-statutory materials have been provided to assist in navigating the disciplinary process. Information contained within should not be cited as legal authority and is not offered as legal advice, but are intended for educational purposes. Law enforcement personnel should consult with their Agency, as well as local government Counsel, for legal interpretations.

If you have any suggestions concerning this Manual, please bring them to our attention.



# **LAW ENFORCEMENT DISCIPLINE MANUAL**

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# INTRODUCTION

In the 2014 session of the Kentucky General Assembly, with the passage of the Municipal Reclassification Reform Act, the long-standing method of designating city classes as first through sixth class in KRS 81.010 was abolished. This change does not affect the classification of Louisville Metro or Lexington-Fayette County, however, as both were already outside the first through sixth class city classification scheme set forth in the prior statute.

Prior to January 1, 2015, cities would be classified in one of the following ways:

- First Class
- Second Class
- Third Class
- Fourth Class
- Fifth Class
- Sixth Class
- Consolidated Local Government (Louisville Metro)
- Urban-County Government (Lexington-Fayette County)

Effective January 1, 2015, the Kentucky General Assembly enacted KRS 81.005 and reduced the classes of cities to two: First Class and Home Rule. A First Class city is a city that was previously a first class city under the prior law, and a Home Rule city is one that was previously classed as second through sixth class. In practical effect, this means that there are currently no First Class cities in Kentucky at all, and all incorporated cities, with the exception of Louisville Metro and Lexington-Fayette County, which fall outside the parameters of KRS 81.005, are now classified as Home Rule cities.

However, for the purposes of certain statutory responsibilities and authorities, the prior class of a city will remain relevant. As such, agencies must be aware of their prior city class status. If an agency is uncertain of its prior class designation, the Kentucky Secretary of State maintains the official records as relates to the official status of a city. As a note, although prior sixth class city agencies are home rule class, language in various statutes limit some discipline provisions to cities of a population of 1,000 and more. Under prior classification, that would exclude prior cities of the sixth class (or cities that fall below that number in population on the next census). A population of 8,000 or more is the dividing line between prior fourth and third class cities, and that number remains an important distinction in the current law. Cities that are close to either 1,000 in population or 8,000 in population may find their status change

Please copy and paste the following into your browser and follow the prompts to locate information about all incorporated cities. See: <http://apps.sos.ky.gov/land/cities/>.



# **SUMMARY SHEETS**





**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the FIRST CLASS See APPENDIXES II and IX
<b>CHARGING REQUIREMENTS:</b>	KRS 90.190
<b>NOTICE REQUIREMENTS:</b>	KRS 90.160
<b>HEARING REQUIREMENTS:</b>	KRS 90.190 KRS 90.110 (21)
<b>APPEAL RIGHTS:</b>	KRS 90.190(3) & (4)
<b>NOTES:</b>	See KRS 90.150 for personnel exclusions; See Civil Service regulations; See Collective Bargaining contract.

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS Previously Second Class See APPENDIXES II and X
<b>CHARGING REQUIREMENTS:</b>	KRS 95.450 (1) KRS 95.450 (2)
<b>NOTICE REQUIREMENTS:</b>	KRS 95.450 (3)
<b>HEARING REQUIREMENTS:</b>	KRS 95.450 (3) KRS 15.520 (1)(h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 95.460 KRS 15.520 (2) KRS 15.520 (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 95.450 (5) and 15.520(1)(b)(d) for suspensions; See KRS 15.520

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Third Class See APPENDIXES II and X
<b>CHARGING REQUIREMENTS:</b>	KRS 95.450 (1) KRS 95.450 (2)
<b>NOTICE REQUIREMENTS:</b>	KRS 95.450 (3)
<b>HEARING REQUIREMENTS:</b>	KRS 95.450 (3) KRS 15.520 (1)(h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 95.460 KRS 15.520 (2) KRS 15.520 (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 95.450 (5) and 15.520(1)(b)(d) for suspensions; See KRS 15.520

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Fourth Class (With Civil Service adopted) See APPENDIXES II and X
<b>CHARGING REQUIREMENTS:</b>	KRS 95.765 (1)
<b>NOTICE REQUIREMENTS:</b>	KRS 95.765 (1)
<b>HEARING REQUIREMENTS:</b>	KRS 95.765 (1)
<b>APPEAL RIGHTS:</b>	KRS 95.766
<b>NOTES:</b>	See KRS 95.761 for personnel exclusions; 95.765 (2) for suspensions. SEE 15.520

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Fourth Class (Without Civil Service adopted) See APPENDIXES II and X
<b>CHARGING REQUIREMENTS:</b>	KRS 15.520 (1)(e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 15.520 (2) KRS 15.520 (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 83A.080, At will employment

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Fifth Class (With Civil Service adopted) See APPENDIX II and X
<b>CHARGING REQUIREMENTS:</b>	KRS 95.765 (1)
<b>NOTICE REQUIREMENTS:</b>	KRS 95.765 (1)
<b>HEARING REQUIREMENTS:</b>	KRS 95.765 (1)
<b>APPEAL RIGHTS:</b>	KRS 95.766
<b>NOTES:</b>	See KRS 95.761 for personnel exclusions; 95.765 (2) for suspensions.

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Fifth Class (Without Civil Service adopted) See APPENDIX II
<b>CHARGING REQUIREMENTS:</b>	KRS 15.520 (1)(e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 15.520 (2) KRS 15.520 (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 83A.080, At will employment

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	City of the HOME RULE CLASS – Previously Sixth Class See APPENDIX II
<b>CHARGING REQUIREMENTS:</b>	KRS 15.520 (1)(e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 15.520 (1)(h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 15.520 (2) KRS 15.520 (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 83A.080, At will employment



**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>URBAN-COUNTY GOVERNMENT</b> See APPENDIXES III, V and X
<b>CHARGING REQUIREMENTS:</b>	KRS 95.450 (1) (2)
<b>NOTICE REQUIREMENTS:</b>	KRS 95.450 (3)
<b>HEARING REQUIREMENTS:</b>	KRS 95.450 (3) KRS 15.520 (1) (h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 95.460 KRS 15.520 (2) (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 95.450 (5) and 15.520(1)(b)(d) for suspensions; See KRS 15.520 (4) See KRS 67A

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>CONSOLIDATED LOCAL GOVERNMENT</b> See APPENDIX VI
<b>CHARGING REQUIREMENTS:</b>	KRS 67C.321 (1) (2) KRS 67C.325
<b>NOTICE REQUIREMENTS:</b>	KRS 67C.321 (1) (2) KRS 67C 323 (1) (2) KRS 67C.325
<b>HEARING REQUIREMENTS:</b>	KRS 67C.321 (1) (2) KRS 67C 323 (1) (2) KRS 67C.325
<b>APPEAL RIGHTS:</b>	KRS 67C.323 (3) (a) (b) KRS 67C.325
<b>NOTES:</b>	KRS 67C.319 KRS 67C.402 KRS 67C.414 See Collective Bargaining Agreement

## KENTUCKY DISCIPLINARY PROCEDURES

### (SUMMARY INFORMATION)

AGENCY TYPE:	SHERIFF (With Merit Board adopted) See APPENDIX II and VII
CHARGING REQUIREMENTS:	KRS 70.270 (3) KRS 70.273 (1) KRS 15.520 (1) (e) KRS 15.520 (4)
NOTICE REQUIREMENTS:	KRS 70.270 (1) KRS 70.273 (1) (2) KRS 15.520 (1) (h) KRS 15.520 (4)
HEARING REQUIREMENTS:	KRS 70.270 (2) KRS 70.273 (1) KRS 15.520 (1) (h) KRS 15.520 (4)
APPEAL RIGHTS:	KRS 70.273 (4) KRS 15.520 (2) (3) KRS 15.520 (4)
NOTES:	See KRS 70.267 (5) for probationary employee.

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>SHERIFF</b> (Without Merit Board adopted) See APPENDIXES II and VII
<b>CHARGING REQUIREMENTS:</b>	KRS 15.520 (1) (e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 15.520 (1) (h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 15.520 (1) (h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 15.520 (2) (3) KRS 15.520 (4)
<b>NOTES:</b>	See KRS 70.030 At will employment  NOTE: Recent case law suggests that Sheriff's Offices are subject to the requirements of KRS 15.520.

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>COUNTY POLICE</b> (With Merit System adopted) See APPENDIX VIII
<b>CHARGING REQUIREMENTS:</b>	KRS 78.445 (2) KRS 78.450 (1)
<b>NOTICE REQUIREMENTS:</b>	KRS 78.445 (1) KRS 78.450 (3)
<b>HEARING REQUIREMENTS:</b>	KRS 78.445 (1) KRS 78.450 (1)
<b>APPEAL RIGHTS:</b>	KRS 78.455
<b>NOTES:</b>	See 78.428 for personnel exclusions

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>COUNTY POLICE</b> (Without Merit System adopted) See APPENDIX II
<b>CHARGING REQUIREMENTS:</b>	See At will employment
<b>NOTICE REQUIREMENTS:</b>	See At will employment
<b>HEARING REQUIREMENTS:</b>	See At will employment
<b>APPEAL RIGHTS:</b>	See At will employment
<b>NOTES:</b>	See KRS 15.520 See At will employment

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>UNIVERSITY POLICE</b> See APPENDIX II
<b>CHARGING REQUIREMENTS:</b>	KRS 164.965 KRS 15.520 (1) (e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 164.965 KRS 15.520 (1) (h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 164.965 KRS 15.520 (1) (h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 164.965 KRS 15.520 (2) (3) KRS 15.520 (4)
<b>NOTES:</b>	See University Personnel policies and KRS 18A. Recent case law suggests university police officers are subject to KRS 15.520 as well.

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>KY STATE POLICE</b> <b>See APPENDIX III</b>
<b>CHARGING REQUIREMENTS:</b>	<b>KRS 16.140(1)</b>
<b>NOTICE REQUIREMENTS:</b>	<b>KRS 16.140(1) (2)</b>
<b>HEARING REQUIREMENTS:</b>	<b>KRS 16.140(1) (2) (3) (7) (8) (9)</b>
<b>APPEAL RIGHTS:</b>	<b>KRS 16.150(1) (2) (4) (5)</b>
<b>NOTES:</b>	<b>See KRS 16.080</b>



**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>KY VEHICLE ENFORCEMENT</b> See APPENDIXES III
<b>CHARGING REQUIREMENTS:</b>	KRS 15A.371 (4) (5)
<b>NOTICE REQUIREMENTS:</b>	KRS 15A.371 (6) (9)
<b>HEARING REQUIREMENTS:</b>	KRS 15A.371 (7) (9) (10) KRS 15A.372
<b>APPEAL RIGHTS:</b>	KRS 15A.372 (7)
<b>NOTES:</b>	See KRS Chapter 13B

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>KY STATE AGENCY</b> See APPENDIXES I and IV
<b>CHARGING REQUIREMENTS:</b>	KRS 18A.095 (3) (9)
<b>NOTICE REQUIREMENTS:</b>	KRS 18A.095 (5) (8)
<b>HEARING REQUIREMENTS:</b>	KRS 18A.095 (6)
<b>APPEAL RIGHTS:</b>	18A.100
<b>NOTES:</b>	See KRS Chapter 13B

**KENTUCKY DISCIPLINARY PROCEDURES**  
**(SUMMARY INFORMATION)**

<b>AGENCY TYPE:</b>	<b>AIRPORT POLICE</b> See APPENDIXES III and XI
<b>CHARGING REQUIREMENTS:</b>	KRS 183.883 KRS 15.520 (1) (e) KRS 15.520 (4)
<b>NOTICE REQUIREMENTS:</b>	KRS 183.883 KRS 15.520 (1) (h) KRS 15.520 (4)
<b>HEARING REQUIREMENTS:</b>	KRS 183.883 KRS 15.520 (1) (h) KRS 15.520 (4)
<b>APPEAL RIGHTS:</b>	KRS 183.883 KRS 15.520 (2) (3) KRS 15.520 (4)
<b>NOTES:</b>	See Airport Board personnel policies.

# KENTUCKY DISCIPLINARY PROCEDURES

## (SUMMARY INFORMATION)

Kentucky local and state agencies not otherwise listed in this manual should refer to KRS 18A and KRS 13B, for state agencies, and confer with agency counsel for any internal requirements as well.

# **APPENDIXES**



# **APPENDIX I**

## **CHAPTER 13B**

### **ADMINISTRATIVE HEARINGS**

#### **13B.020 Application of chapter -- Exemptions.**

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to:

(a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;

(b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;

(c) Any other public hearing conducted by an administrative agency which is non-adjudicatory in nature and the primary purpose of which is to seek public input on public policy making;

(d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

(e) Administrative hearings conducted by the legislative and judicial branches of state government;

(f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;

(g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;

(h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;

(i) Administrative hearings exempted pursuant to subsection (3) of this section;

(j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and

(k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

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- (c) Justice and Public Safety Cabinet
  - 1. Department of Kentucky State Police
    - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

\*\*\*\*\*

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

(a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

(b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or

(c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.

(5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

Effective: April 8, 2016

History: Amended 2016 Ky. Acts ch. 55, sec. 2, effective April 8, 2016. -- Amended 2012 Ky. Acts ch. 158, sec. 3, effective July 12, 2012. -- Amended 2010 Ky. Acts ch. 24, sec. 12, effective July 15, 2010. -- Amended 2009 Ky. Acts ch. 11, sec. 6, effective June 25, 2009. -- Amended 2007 Ky. Acts ch. 85, sec. 13, effective June 26, 2007. -- Amended 2006 Ky. Acts ch. 181, sec. 2, effective July 12, 2006; ch. 211, sec. 8, effective July 12, 2006; and ch. 251, sec. 1, effective July 12, 2006. -- Amended 2005 Ky. Acts ch. 99, sec. 13, effective June 20, 2005; and ch. 123, sec. 8, effective June 20, 2005. -- Amended 2000 Ky. Acts ch. 14, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 426, sec. 63, effective July 15, 1998; and ch. 538, sec. 12, effective April 13, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 2, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 2, effective July 15, 1996. Legislative Research Commission Note (7/15/98). This section was amended by 1998 Ky. Acts chs. 426 and 538. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 538, which was a nonrevisory Act, prevails under KRS 7.136(3).

### **13B.030 Powers of agency head -- Hearing officers.**

(1) An agency head may exercise all powers conferred on an agency relating to the conduct of administrative hearings, and he may delegate conferred powers to a hearing officer or a member of a collegial body that serves as an agency head, or



he may delegate conferred powers to a hearing officer to conduct an administrative hearing before a hearing panel, reserving the authority to render a recommended order to that panel. An agency head may not, however, delegate the power to issue a final order unless specifically authorized by statute, or unless disqualified in accordance with KRS 13B.040(2).

(2)(a) In securing hearing officers as necessary to conduct administrative hearings under the jurisdiction of the agency, an agency may:

1. Employ hearing officers;
2. Contract with another agency for hearing officers; or
3. Contract with private attorneys through personal service contract.

(b) An agency may secure hearing officers pursuant to subsection (2)(a)3. of this section only if the Attorney General has first determined that the Attorney General's Office cannot provide the needed hearing officers to the agency. If the Attorney General determines that the Attorney General's Office can provide the needed hearing officers to the agency, the agency shall use the hearing officers provided by the Attorney General's Office. The expenses incurred by the Attorney General's Office in providing the hearing officers to the agency shall be paid to the Attorney General's Office by the agency in the following manner:

1. The amount to be paid by the agency to the Attorney General's Office shall be established by vouchers submitted by the Attorney General's Office to the agency which shall be promptly paid by the agency, at the beginning of, at the end of, or at any time during the provision of the hearing officers by the Attorney General's Office.

2. The expenses to be paid to the Attorney General's Office shall be calculated according to the amount of time spent by the salaried hearing officers of the Attorney General's Office in providing the services. The charge for time spent shall not exceed twenty-five percent (25%) more than the amount allowed for a sole practitioner under personal service contract. The Attorney General may require payment in advance of the provision of the requested services based on his calculation of the amount of time that will be spent by the salaried hearing officers of the Attorney General's Office in providing the services. The agency shall be reimbursed for any overpayment at the conclusion of the provision of services by the Attorney General's Office.

(3) A hearing officer shall possess and meet qualifications as the Personnel Cabinet and he employing agency, with the advice of the division, may find necessary to assure competency in the conduct of an administrative hearing. The qualifications in this subsection shall not, however, apply to a member of a board, commission, or other collegial body who may serve as a hearing officer in his capacity as a member of the collegial body.

(4) All hearing officers, including members of collegial bodies who serve as hearing officers, shall receive training necessary to prepare them to conduct a competent administrative hearing. The training shall pertain to the conduct of administrative hearings generally and to the applications of the provisions of this chapter, specifically. The division shall establish by administrative regulation minimum standards concerning the length of training, course content, and instructor qualifications. Required training shall not exceed eighteen (18) classroom hours for initial training and six (6) classroom hours per year for continuing training. Actual

training may be conducted by an agency or any other organization, if the training program offered has been approved by the division as meeting minimum standards.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 154, sec. 4, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 3, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 3, effective July 15, 1996.

### **13B.050 Notice of administrative hearing.**

(1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing, unless otherwise required by federal law. An agency shall make reasonable effort to schedule a hearing on a date that is convenient to the parties involved.

(2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt requested, sent to the last known address of the parties, or by personal service, with the exception of notices of Personnel Board hearings and all board orders which may be served by first-class mail. Service by certified mail shall be complete upon the date on which the agency receives the return receipt or the returned notice.

(3) The notice required by this section shall be in plain language and shall include:

- (a) A statement of the date, time, place, and nature of the hearing;
- (b) The name, official title, and mailing address of the hearing officer;
- (c) The names, official titles, mailing addresses, and, if available, telephone numbers of all parties to the hearing, including the counsel or representative of the agency;
- (d) A statement of the factual basis for the agency action along with a statement of issues involved, in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;
- (e) A reference to the specific statutes and administrative regulations which relate to the issues involved and the procedure to be followed in the hearing;
- (f) A statement advising the person of his right to legal counsel;
- (g) A statement of the parties' right to examine, at least five (5) days prior to the hearing, a list of witnesses the parties expect to call at the hearing, any evidence to be used at the hearing and any exculpatory information in the agency's possession; and
- (h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.

(4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 425, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 5, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 5, effective July 15, 1996.

### **13B.060 Petition for intervention.**

- (1) The hearing officer shall grant a petition for intervention if:
  - (a) The petitioner has a statutory right to initiate the proceeding in which he wishes to intervene; or
  - (b) The petitioner has an interest which is or may be adversely affected by the outcome of the proceeding.
- (2) The hearing officer may grant intervention after consideration of the following factors and a determination that intervention is in the interests of justice:
  - (a) The nature of the issues;
  - (b) The adequacy of representation of the petitioner's interest which is provided by the existing parties to the proceeding;
  - (c) The ability of the petitioner to present relevant evidence and argument; and
  - (d) The effect of intervention on the agency's ability to implement its statutory mandate.
- (3) Unless otherwise required by federal law, a petition for intervention shall be filed and copies mailed to all parties named in the notice of the hearing, at least fourteen (14) days before the hearing. The parties to the hearing shall have seven (7) days within which to file any response they may have to the petition to intervene. If a petitioner qualifies for intervention under subsection (2) of this section, the hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:
  - (a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;
  - (b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and
  - (c) Requiring two (2) or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.
- (4) The hearing officer, at least three (3) days before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The hearing officer shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 6, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 6, effective July 15, 1996.

### **13B.070 Prehearing conference -- Mediation and informal settlement procedures.**

- (1) A hearing officer may convene and conduct a prehearing conference upon reasonable notice to all parties to explore jurisdictional matters, mediation and settlement possibilities, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas and orders, and other matters that will promote the orderly and prompt conduct of the hearing.

(2) Upon conclusion of a prehearing conference, the hearing officer shall issue a prehearing order incorporating all matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the pleadings, to regulate the conduct of the hearing.

(3) Except to the extent precluded by another provision of law, mediation or informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is encouraged. Agencies that employ informal settlement procedures shall establish by administrative regulation the specific procedures to be used. This subsection shall not be construed, however, as requiring any party to settle a matter pursuant to informal procedures when the right to an administrative hearing is conferred.

Effective: July 15, 1998

History: Amended 1998 Ky. Acts ch. 261, sec. 1, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 7, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 7, effective July 15, 1996.

### **13B.080 Conduct of hearing.**

(1) A hearing officer shall preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing. When a prehearing order has been issued, the hearing officer shall regulate the hearing in conformity with the prehearing order.

(2) The hearing officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement. The hearing officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed recommended or final orders. The original of all filings shall be mailed to the agency, and copies of any filed item shall be served on all parties and the hearing officer by mail or any other means permitted by law or prescribed by agency administrative regulation. The agency shall when it is received stamp the time and date upon a document.

(3) The hearing officer may issue subpoenas and discovery orders when requested by a party or on his own volition. When a subpoena is disobeyed, any party may apply to the Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(4) To the extent necessary for the full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by limited grant of intervention or a prehearing order.

(5) Any party to an administrative hearing may participate in person or be represented by counsel. In informal proceedings, a party may be represented by other professionals if appropriate and if permitted by the agency by administrative regulation.

(6) If a party properly served under KRS 13B.050 fails to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing

process, or fails to comply with the orders of a hearing officer, the hearing officer may adjourn the proceedings and issue a default order granting or denying relief as appropriate, or may conduct the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in KRS 13B.110.

(7) A hearing officer may conduct all or part of an administrative hearing, or a prehearing conference, by telephone, television, or other electronic means, if each party to the hearing has an opportunity to hear, and, if technically feasible, to see the entire proceeding as it occurs, and if each party agrees.

(8) An administrative hearing shall be open to the public unless specifically closed pursuant to a provision of law. If an administrative hearing is conducted by telephone, television, or other electronic means, and is not closed, public access shall be satisfied by giving the public an opportunity, at reasonable times, to hear or inspect the agency's record.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 8, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 8, effective July 15, 1996.

### **13B.090 Findings of fact -- Evidence -- Recording of hearing -- Burdens of proof.**

(1) In an administrative hearing, findings of fact shall be based exclusively on the evidence on the record. The hearing officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, if it is the type of evidence that reasonable and prudent persons would rely on in their daily affairs, but it shall not be sufficient in itself to support an agency's findings of facts unless it would be admissible over objections in civil actions.

(2) All testimony shall be made under oath or affirmation. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. The hearing officer may make a recommended order in an administrative hearing submitted in written form if the hearing officer determines there are no genuine issues of material fact in dispute and judgment is appropriate as a matter of law.

(3) Any party shall have the right to inspect, at least five (5) days prior to the hearing, a list of all witnesses every other party expects to call at the hearing, and the available documentary or tangible evidence relating to an administrative hearing either in person or by counsel. Copies of documentary evidence may be obtained upon the payment of a fee, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving a party the right to examine or copy the personal notes, observations, or conclusions of the agency staff, unless exculpatory in nature, nor shall it be construed as allowing access to the work product of counsel for the agency. Conditions for examining and copying agency records, fees to be charged, and other matters pertaining to access to these records shall be governed by KRS 61.870 to 61.884. To the extent required by due process, the hearing officer may order the

inspection of any records excluded from the application of KRS 61.870 to 61.884 under KRS 61.878 that relate to an act, transaction, or event that is a subject of the hearing, and may order their inclusion in the record under seal.

(4) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(5) The hearing officer may take official notice of facts which are not in dispute, or of generally-recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.

(6) The agency shall cause all testimony, motions, and objections in a hearing to be accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the agency, unless the hearing is closed by law. The agency may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.

(7) In all administrative hearings, unless otherwise provided by statute or federal law, the party proposing the agency take action or grant a benefit has the burden to show the propriety of the agency action or entitlement to the benefit sought. The agency has the burden to show the propriety of a penalty imposed or the removal of a benefit previously granted. The party asserting an affirmative defense has the burden to establish that defense. The party with the burden of proof on any issue has the burden of going forward and the ultimate burden of persuasion as to that issue. The ultimate burden of persuasion in all administrative hearings is met by a preponderance of evidence in the record. Failure to meet the burden of proof is grounds for a recommended order from the hearing officer.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 8, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 8, effective July 15, 1996.

### **13B.110 Recommended order.**

(1) Except when a shorter time period is provided by law, the hearing officer shall complete and submit to the agency head, no later than sixty (60) days after receiving a copy of the official record of the proceeding, a written recommended order which shall include his findings of fact, conclusion of law, and recommended disposition of the hearing, including recommended penalties, if any. The recommended order shall also include a statement advising parties fully of their exception and appeal rights.

(2) If an extension of time is needed by the hearing officer to complete and submit his recommended order to the agency head, the hearing officer shall show good cause to the agency head, in writing, and based upon substantial proof, that an extension of time is needed.

(3) If the agency head, after a showing of good cause, grants the hearing officer an extension of time:

- (a) The extension shall not exceed thirty (30) days from the date the extension as granted;
- (b) The statement granting the extension shall be included in the record of the hearing; and
- (c) Notice of the extension shall be sent to all parties.
- (4) A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party.
- (5) The provisions of this section shall not apply in an administrative hearing where the hearing officer conducts the hearing in the presence of the agency head who renders a decision without the recommendation of the hearing officer.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 10, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 11, effective July 15, 1996.

### **13B.120 Final order.**

- (1) In making the final order, the agency head shall consider the record including the recommended order and any exceptions duly filed to a recommended order.
- (2) The agency head may accept the recommended order of the hearing officer and adopt it as the agency's final order, or it may reject or modify, in whole or in part, the recommended order, or it may remand the matter, in whole or in part, to the hearing officer for further proceedings as appropriate.
- (3) The final order in an administrative hearing shall be in writing and stated in the record. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The final order shall also include the effective date of the order and a statement advising parties fully of available appeal rights.
- (4) Except as otherwise required by federal law, the agency head shall render a final order in an administrative hearing within ninety (90) days after:
  - (a) The receipt of the official record of the hearing in which there was no hearing officer submitting a recommended order under KRS 13B.110; or
  - (b) The hearing officer submits a recommended order to the agency head, unless the matter is remanded to the hearing officer for further proceedings.
- (5) Unless waived by the party, a copy of the final order shall be transmitted to each party or to his attorney of record in the same manner as provided in KRS 13B.050.
- (6) This section shall not apply to disposition pursuant to KRS 13B.070(3).
- (7) If, pursuant to statute, an agency may review the final order of another agency, the review is deemed to be a continuous proceeding as if before a single agency. The final order of the first agency is treated as a recommended order and the second agency functions as though it were reviewing a recommended order in accordance with this section.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 11, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 12, effective July 15, 1996.

### **13B.125 Emergency action -- Hearing -- Appeal.**

(1) An agency may take emergency action affecting the legal rights, duties, privileges or immunities of named persons without a hearing only if duly authorized by statute to so act. If an agency takes emergency action, the agency shall conduct an emergency hearing in accordance with the provisions of this section.

(2) An agency head or an official of an agency duly authorized by law to summarily act in emergency situations may issue an emergency order to stop, prevent, or avoid an immediate danger to the public health, safety, or welfare. The emergency order shall contain findings of fact and conclusions of law upon which the agency bases the emergency order. The agency shall give notice of the emergency order to all affected parties as is practicable under the circumstances, and notice shall be served in the same manner as provided in KRS 13B.050(2). The emergency order is effective when received by the affected party or his representative.

(3) Any person required to comply with an emergency order issued under subsection (2) of this section may request an emergency hearing to determine the propriety of the order. The agency shall conduct an emergency hearing within ten (10) working days of the request for hearing. The agency shall give all affected parties reasonable notice of the hearing and to the extent practicable shall conduct the hearing in conformity with this chapter. The hearing on the emergency order may be conducted by a hearing officer qualified in accordance with KRS 13B.040. Within five (5) working days of completion of the hearing, the agency or hearing officer shall render a written decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law which constitutes an immediate danger to the public health, safety, or welfare.

(4) The decision rendered under subsection (3) of this section shall be a final order of the agency on the matter, and any party aggrieved by the decision may appeal to Circuit Court in the same manner as provided in KRS 13B.140.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 318, sec. 12, effective July 15, 1996.

### **13B.130 Official record of hearing.**

In each administrative hearing, an agency shall keep an official record of the proceedings

which shall consist of:

- (1) All notices, pleadings, motions, and intermediate rulings;
- (2) Any prehearing orders;
- (3) Evidence received and considered;
- (4) A statement of matters officially noticed;
- (5) Proffers of proof and objections and rulings thereon;
- (6) Proposed findings, requested orders, and exemptions;



- (7) A copy of the recommended order, exceptions filed to the recommended order, and a copy of the final order;
- (8) All requests by the hearing officer for an extension of time, and the response of the agency head;
- (9) Ex parte communications placed upon the record by the hearing officer; and
- (10) A recording or transcript of the proceedings.

Effective: July 15, 1996

History: Created 1994 Ky. Acts ch. 382, sec. 13, effective July 15, 1996.

### **13B.140 Judicial review of final order.**

(1) All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

(2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

(3) Within twenty (20) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. The court may require or permit subsequent correction or additions to the official record. If the court requests a transcript of proceedings that have not been transcribed, the cost of the transcription shall be paid by the party initiating the appeal, unless otherwise agreed to by all parties.

(4) A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 13, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 14, effective July 15, 1996.

### **13B.150 Conduct of judicial review.**

(1) Review of a final order shall be conducted by the court without a jury and shall be confined to the record, unless there is fraud or misconduct involving a party engaged in administration of this chapter. The court, upon request, may hear oral argument and receive written briefs.

(2) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the final order or it may reverse the final order, in whole or in part, and remand the case for further proceedings if it finds the agency's final order is:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the agency;

(c) Without support of substantial evidence on the whole record;

(d) Arbitrary, capricious, or characterized by abuse of discretion;

(e) Based on an ex parte communication which substantially prejudiced the rights of any party and likely affected the outcome of the hearing;

(f) Prejudiced by a failure of the person conducting a proceeding to be disqualified pursuant to KRS 13B.040(2); or

(g) Deficient as otherwise provided by law.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 13, effective July 15, 1996. -- Created 1994 Ky. Acts ch. 382, sec. 14, effective July 15, 1996.

### **13B.160 Judicial appeal.**

Any aggrieved party may appeal any final judgment of the Circuit Court under this chapter to the Court of Appeals in accordance with the Kentucky Rules of Civil Procedure.

Effective: July 15, 1996

History: Created 1994 Ky. Acts ch. 382, sec. 16, effective July 15, 1996.

### **13B.170 Administrative regulations.**

(1) An agency shall have authority to promulgate administrative regulations that are necessary to carry out the provisions of this chapter.

(2) Nothing in this chapter shall be construed to prohibit an agency from enacting administrative hearing procedures by administrative regulations which are supplemental to the provisions of this chapter.

Effective: July 15, 1996

History: Created 1994 Ky. Acts ch. 382, sec. 16, effective July 15, 1996.

## **APPENDIX II**

### **CHAPTER 15**

### **DEPARTMENT OF LAW**

#### **15.410 Intention of Legislature to assist local law enforcement.**

It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading local law enforcement; to attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth; and to offer a state monetary supplement for local law enforcement officers while upgrading the educational and training standards of such officers.

History: Created 1972 Ky. Acts ch. 71, sec. 1. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, H, 2, (3) at 1079.

#### **15.420 Definitions for KRS 15.410 to 15.510.**

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

- (1) "Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.
- (2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Department of Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer, or any other peace officer not specifically authorized in KRS 15.410 to 15.510.
- (3) "Council" means the Kentucky Law Enforcement Council.
- (4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 22, effective June 26, 2007. -- Amended 1998 Ky. Acts ch. 244, sec. 1, effective July 15, 1998; ch. 510, sec. 1, effective July 15, 1998; and ch. 606, sec. 55, effective July 15, 1998. -- Amended 1984 Ky. Acts ch. 300, sec. 4, effective July 13, 1984. -- Created 1972 Ky. Acts ch. 71, sec. 2. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, H, 2, (3) at 1079.

## **Complaints Against Police Officers (Police Officers' Bill of Rights)**

### **15.520 Complaints against police officers; manner of investigation and hearing**

(1) As used in this section:

(a) "Citizen" means any individual who is not:

1. A member or supervisor within the law enforcement agency that employs an officer; or

2. An elected or appointed official within the unit of government under which the law enforcement agency that employs the officer is organized;

(b) "Complaint" means any statement by a citizen, whether written or verbal, that alleges any type of misconduct by an officer, including statements that are submitted or received anonymously;

(c) "Disciplinary action" means termination, demotion, a decrease in pay or grade, suspension without pay, and a written reprimand;

(d) "General employment policies" means the rules, regulations, policies, and procedures commonly applicable to the general workforce or civilian employees that are not unique to law enforcement activities or the exercise of peace officer authority, regardless of whether those rules, regulations, policies, and procedures exist or appear in a departmental manual or handbook that is solely applicable to a law enforcement department or agency within the unit of government employing the officer;

(e) "Interrogation" means a formal investigative interview and does not mean conversations or meetings of supervisory personnel and subordinate officers that are not intended to result in disciplinary action, such as conversations or meetings held for the purpose of providing corrective instruction counseling or coaching;

(f) "Law enforcement procedures" means only those policies, rules, and customs that:

1. Are specific to the conduct of officers in the exercise of law enforcement powers and functions, including, without limitation: use of force, conduct in the course of pursuits, conduct during stops or detentions of citizens, conduct in the course of interacting with, assisting, or questioning of citizens, and investigative conduct;

2. Are carried out in the course of peace officer functions;

3. Are not general employment policies; and

4. May exist in either written form or in the form of unwritten standards, practices, or protocols generally accepted and applied in the law enforcement profession;

(g) "Misconduct" means any act or omission by an officer that violates criminal law, law enforcement procedures, or the general employment policies of the employing agency; and

(h) "Officer" means a person employed as a full-time peace officer by a unit of government that receives funds under KRS 15.410 to 15.510 who has completed any officially established initial probationary period of employment lasting no longer than twelve (12) months not including, unless otherwise specified by the employing agency, any time the officer was employed and completing the basic training required by KRS 15.404.

(2) In order to establish a minimum system of professional conduct for officers of local units of government of this Commonwealth, the following standards are stated as the

intention of the General Assembly to deal fairly and set administrative due process rights in certain disciplinary matters concerning those officers of an employing unit of government that participates in the Kentucky Law Enforcement Foundation Program fund administered pursuant to KRS 15.430 and, at the same time, to provide a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by officers covered by this section.

(3) Any complaint taken from a citizen alleging misconduct on the part of any officer shall be taken as follows:

(a) If the complaint alleges criminal activity by an officer, the allegations may be investigated without a signed, sworn complaint of the citizen;

(b) If the complaint alleges any other type of violation not constituting criminal activity, including violations of law enforcement procedures or the general employment policies of the employing agency, an affidavit, signed and sworn to by the citizen, shall be obtained, except as provided by paragraph (c) of this subsection; or

(c) If a complaint is required to be obtained and the citizen, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the employing agency may investigate the allegations, but shall bring charges under subsection (6) of this section against the officer only if the employing agency can independently substantiate the allegations absent the sworn statement of the citizen. (4)

(a) When an officer is accused of an act or omission that would constitute a violation of law enforcement procedures by any individual within the law enforcement agency employing the officer, including supervisors and elected or appointed officials of the officer's employing agency, the employing agency shall conform the conduct of any investigation to the provisions of subsection (5) of this section, shall formally charge the officer in accordance with subsection (6) of this section, and shall conduct a hearing in accordance with subsection (7) of this section before any disciplinary action shall be taken against the officer.

(b) The provisions of this subsection shall not prevent the employing agency from suspending the officer, with or without pay, during an investigation and pending the final disposition of any formal charges, except that an officer suspended without pay shall be entitled to full back pay and benefits for the regular hours he or she would have worked if no formal charges are brought or the hearing authority finds the officer not guilty of the charges.

(c) An employing agency shall not be required to follow the provisions of this section in addressing conduct by the officer that would constitute a violation of the general employment policies of the employing agency.

(5) (a) Any complaint filed by a citizen under subsection (3) of this section or any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section shall be investigated by the employing agency or another designated law enforcement agency in accordance with the provisions of this subsection if the employing agency determines that an investigation of the complaint or the alleged conduct is warranted.

(b) No threats, promises, or coercions shall be used at any time against any officer while he or she is a suspect in a criminal case or has been accused of a violation of law enforcement procedures. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion.

Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension.

(c) Unless otherwise agreed to in writing by the officer, no police officer shall be subjected to interrogation for alleged conduct that violates law enforcement procedures, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The notice of interrogation shall include a statement regarding any reason for the interrogation and shall be served on the officer by certified mail, return receipt requested, or by personal delivery.

(d) The interrogation shall be conducted while the officer is on duty. The officer may be required to submit a written report of the alleged incident if the request is made by the employing agency no later than the end of the subject officer's next tour of duty after the tour of duty during which the employing agency initially was made aware of the complaint.

(e) If an officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he or she shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences.

(6) (a) If it is determined through investigation or other means that the facts alleged in a citizen complaint or in an accusation of a violation of law enforcement procedures warrant charging the officer, the charge shall be made in writing with sufficient specificity so as to fully inform the officer of the nature and circumstances of the alleged violation in order that he or she may be able to properly defend himself or herself.

(b) The charge shall be signed by a representative of the employing agency, shall set out the disciplinary action recommended or imposed, and shall be served on the officer in writing by certified mail, return receipt requested, or by personal delivery.

(c) When an officer has been charged with a violation of law enforcement procedures, no public statements shall be made concerning the alleged violation by any person or persons of the employing agency or the officer so charged, until final disposition of the charges.

(d) No officer as a condition of continued employment by the employing agency shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature.

(7) Unless waived by the charged officer in writing, a hearing shall be conducted by the officer's appointing authority to determine whether there is substantial evidence to prove the charges and to determine what, if any, disciplinary action shall be taken if substantial evidence does exist. In conducting a hearing, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any officer charged, except as otherwise agreed to in writing by the officer and the employing agency:

(a) The accused officer shall be given at least twelve (12) days' written notice of any hearing. The notice of hearing shall be served on the officer by certified mail, return receipt requested, or by personal delivery;

- (b) Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the officer no less than twelve days (12) prior to the time of any hearing;
  - (c) At any hearing based upon the sworn complaint of a citizen, the citizen shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested, or by personal delivery;
  - (d) If the return receipt has been returned unsigned, or the individual does not appear, except due to circumstances beyond his or her control he or she cannot appear at the time and place of the hearing, any charge resulting from a complaint made by that citizen shall not be considered by the hearing authority and shall be dismissed with prejudice;
  - (e) The accused officer shall have the right and opportunity to obtain and have counsel present, and to be represented by counsel;
  - (f) The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
  - (g) The accused officer shall be allowed to present witnesses and any documentary or other relevant evidence the officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
  - (h) If any officer who has been suspended with or without pay is not given a hearing as provided by this section within seventy-five (75) days of any charge being filed pursuant to this section, the charge shall be dismissed with prejudice and shall not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits;
  - (i) Any officer who has been suspended without pay who is found not guilty of the charges by the hearing authority shall be reinstated with the full back pay and benefits for the regular hours he or she would have worked;
  - (j) The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced; and
  - (k) To the extent the provisions of KRS 61.805 to 61.850 are applicable, the hearing authority may conduct the hearing required by this subsection in a closed session, unless the officer requests of the hearing authority in writing at least three (3) days prior to the hearing that the hearing be open to the public.
- (8) (a) Any officer who is found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the employing agency is located

within thirty (30) days of the date written findings are issued to appeal the action of the hearing authority. The appeal shall be initiated by the filing of a complaint in the same manner as any civil action under the Rules of Civil Procedure and shall include a copy of the hearing authority's final order. The Circuit Court review of the case shall be based solely upon the administrative record created before the hearing authority and any new evidence offered by the officer regarding alleged arbitrariness on the part of the hearing authority.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action.

(9) The provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall not apply in any proposed disciplinary action arising from a citizen complaint made under subsection (3) of this section or arising from any allegation of conduct that would constitute a violation of law enforcement procedures under subsection (4) of this section. This section shall not be interpreted or construed to alter or impair any of the substantive rights provided to a city police officer under KRS 90.310 to 90.410, 95.450, and 95.765 for any proposed disciplinary action or other matters not arising under subsections (3) and (4) of this section, including proposed actions involving alleged violations of general employment policies. To the extent that the provisions of this section are inapplicable to any proposed disciplinary action against a city police officer, the provisions of KRS 90.310 to 90.410, 95.450, and 95.765 shall remain in full force and effect.

(10) As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be interpreted or construed to:

(a) Limit or to in any way affect any rights previously afforded to officers of the Commonwealth by statute, collective bargaining or working agreement, or legally adopted ordinance;

(b) Preclude an employing agency from investigating and charging an officer both criminally and administratively;

(c) Prevent the suspension with or without pay or reassignment of an officer during an investigation and pending final disposition charges;

(d) Permit an employing agency to categorize and treat any complaint that originates from a citizen as an internal matter in order to avoid application of all of the provisions of this section to the final disposition of a citizen's complaint;

(e) Apply any disciplinary action required by this section to actions taken by an employing agency that is not related to misconduct by a law enforcement officer, such as personnel decisions made by the employing agency due to a lack of resources or personnel decisions related to a chief's management of a department; or

(f) Prevent an employing agency from electing to apply the provisions of this section, or parts thereof, in circumstances that would not be covered under this section.

(11) This section shall not apply to officers employed by a consolidated local government<sup>1</sup> that receives funds under KRS 15.410 to 15.510, who shall instead be governed by the provisions of KRS 67C.326.

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<sup>1</sup> Louisville Metro.



Effective: June 24, 2015

History: Amended 2015 Ky. Acts ch. 119, sec. 1, effective June 24, 2015. -- Amended 1994 Ky. Acts ch. 383, sec. 1, effective July 15, 1994. -- Amended 1990 Ky. Acts ch. 127, sec. 1, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 313, sec. 1, effective July 15, 1986. -- Created 1980 Ky. Acts ch. 333, sec. 1, effective July 15, 1980.



## **APPENDIX III**

### **CHAPTER 16 STATE POLICE**

#### **A. TROOPER**

##### **16.050 Appointment and compensation of personnel; Department of Kentucky State Police Personnel Board; organization, duties, and compensation**

(1) The commissioner shall appoint or promote to the ranks and grades and positions of the department such officers as are considered by him or her to be necessary for the efficient administration of the department. Notwithstanding the provisions of KRS 64.640, the commissioner of the Department of Kentucky State Police and the secretary of the Personnel Cabinet shall biennially conduct a salary survey, by rank, of State Police/highway patrol officers in those states adjoining Kentucky. The salaries of such officers of equal rank in those states surveyed shall be averaged, and such averages where the average for that rank exceeds the salary paid to Kentucky officers of that rank in the preceding biennium shall be included in the department's budget request submitted to the Kentucky General Assembly.

(2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.

(3) There is created a Department of Kentucky State Police Personnel Board consisting of the commissioner and four (4) other members to be appointed by the Governor, two (2) to be appointed from each of the two (2) major political parties.

(4) The initial appointment of members of the board shall be for terms of one (1), two (2), three (3), and four (4) years. Thereafter each appointment shall be for a term of four (4) years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.

(5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.

(6) The board shall elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the commissioner. Three (3) members shall constitute a quorum for the transaction of business. Members of the board other than the commissioner shall receive compensation of fifty dollars (\$50) and reimbursement of travel expenses for each meeting of the board which they attend.

(7) The board shall promulgate administrative regulations to carry out the purposes herein, which shall include provisions for:

(a) Open competitive examination as to fitness of applicants for employment as officers; and

(b) Establishment of eligible lists as a result of such competitive examinations, from which lists vacancies shall be filled.

(8) The board shall hear appeals from applicants for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.

**Effective:** July 15, 2016

**History:** Amended 2016 Ky. Acts ch. 109, sec. 7, effective July 15, 2016; and ch. 110, sec. 8, effective July 15, 2016. -- Amended 2007 Ky. Acts ch. 85, sec. 57, effective June 26, 2007. -- Amended 1998 Ky. Acts ch. 154, sec. 8, effective July 15, 1998. -- Amended 1988 Ky. Acts ch. 344, sec. 1, effective July 15, 1988. -- Amended 1978 Ky. Acts ch. 154, sec. 2, effective June 17, 1978. -- Amended 1974 Ky. Acts ch. 74, Art. V, secs. 24(4) and 25. -- Amended 1966 Ky. Acts ch. 255, sec. 12. -- Amended 1952 Ky. Acts ch. 57, sec. 2. -- Created 1948 Ky. Acts ch. 80, sec. 5.

**Legislative Research Commission Note (7/15/2016).** This statute was amended in 2016 Ky. Acts ch. 109, sec. 7 and ch. 110, sec. 8. 2016 Ky. Acts ch. 110, sec. 15 provided that ch. 110 takes precedence over ch. 109. Chapter 110 was also the later-passed bill. Therefore, 2016 Ky. Acts ch. 110, sec. 8 has been codified and 2016 Ky. Acts ch. 109, sec. 7 has not.

### **16.140 Discipline and removal of officers; grounds and procedure; removal of civilian employees; probationary period**

(1) With the exceptions specified in this section, KRS 16.150, and KRS 16.160, no officer of the department shall be removed, suspended, reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law or of any administrative regulation promulgated by the commissioner. Any person may prefer charges in writing against any officer, which shall be filed in the Office of Internal Affairs, which shall be designated by the commissioner as the recipient of charges and shall be administratively responsible for the maintenance of good order within the department through the collection and investigation of charges and the retention of their dispositions. The charges shall be signed by the person making the same, and shall set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall prefer charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the Office of Internal Affairs shall deliver a copy thereof, personally, by certified mail, return receipt requested to the officer offending. Within five (5) days after the receipt thereof, the officer may demand public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

(2) If the charges are denied and the officer demands a hearing within the time above specified, he shall make his demand known to the commissioner in writing. After demand for hearing has been made, the commissioner within twenty (20) days from the date thereof shall arrange for a public hearing before a trial board to be constituted in the manner provided in this section. The officer defendant shall be given not less than twenty (20) days' notice of the time, place, and hour of the hearing.

(3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the department or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any Circuit Judge, upon application of the trial board, or the

commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify in that court.

(4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire, upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.

(5) All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.

(6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.

(7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty percent (20%) for not more than six (6) months, or by removing or dismissing from the service of the department any officer so found guilty.

(8) For the purpose of hearing charges against any officer, as set forth in this section, there is created a trial board, which shall consist of the commissioner and of a panel of ten (10) officers of the department appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members thereof to hear charges against any officer in the manner and under the procedure above set forth. The commissioner may promulgate reasonable administrative regulations governing the procedure before the trial board, which do not conflict with this section. The panel or trial board shall be a continuing body, and the officers designated shall serve thereon in addition to their other duties and without any increase in compensation, except they may be reimbursed for meals, lodging, and traveling expenses incurred while in the performance of their official duties as members of the board. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted in lieu thereof.

(9) No officer is entitled to a hearing as provided in this section, unless his suspension is for more than twenty (20) days, or his pay reduced more than ten percent (10%); but if the officer receives more than twenty (20) days' suspension or reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to such hearing in the manner above provided.

(10) Any civilian employee may be discharged, suspended, or reduced in pay at any time by the commissioner, pursuant to KRS Chapter 18A.

(11) Any officer appointed to the department shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without

cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until the officer has been employed by the department for a period of one (1) year or more.

**Effective:** June 25, 2009

**History:** Amended 2009 Ky. Acts ch. 59, sec. 9, effective June 25, 2009. -- Amended 1996 Ky. Acts ch. 318, sec. 19, effective July 15, 1996. -- Amended 1982 Ky. Acts ch. 448, sec. 74, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 114, sec. 2, effective July 15, 1980. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4). -- Amended 1968 Ky. Acts ch. 152, sec. 3. -- Amended 1952 Ky. Acts ch. 57, sec. 4. -- Created 1948 Ky. Acts ch. 80, sec. 14.

### **16.150 Appeal from disciplinary action or removal**

(1) Any officer of the department who shall be found guilty by the trial board of any charge as provided in KRS 16.140 shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court, provided the punishment be a suspension of more than twenty (20) days or his pay be reduced more than ten percent (10%), or if he is reduced in grade, if his classification so warrants, or is removed or dismissed from the department; provided, however, the enforcement of the judgment of the trial board upon said charges shall not be suspended during said appeal.

(2) To perfect said appeal within the time specified, such officer shall file in the office of the clerk of the Franklin Circuit Court a copy of the order, of all the evidence heard, and of all the steps taken by the trial board relative to such charges, but shall first post a bond to secure the cost of the action in a lump sum to be approved by the circuit clerk, with corporate surety approved by the Office of Insurance as to solvency and responsibility and authorized to transact business in this state, or he may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to such appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.

(3) Such action shall be set down for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.

(4) No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party engaged in the administration of KRS 16.010 to 16.170, or one (1) who is a member of the trial board, but the court shall otherwise hear the case upon the record as attested by the board, and in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not:

- (a) The board acted without or in excess of its powers;
- (b) The order appealed from was procured by fraud; or
- (c) If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from. After such a hearing, the court shall enter a judgment sustaining or setting aside the order of the trial board appealed from.

The cost of the action shall follow the judgment of the court.

(5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure, but such appeal shall be docketed within sixty (60) days from the entry of judgment, unless

the time be extended by the Circuit Court, but in no event beyond one hundred twenty (120) days from the entry of judgment.

**Effective:** July 15, 2010

**History:** Amended 2010 Ky. Acts ch. 24, sec. 23, effective July 15, 2010. -- Amended 1976 Ky. Acts ch. 62, sec. 12. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4). -- Amended 1952 Ky. Acts ch. 84, sec. 54. -- Created 1948 Ky. Acts ch. 80, sec. 14.

### **16.160 Restrictions on discipline or removal; reduction of force**

No officer shall be suspended, reduced in rank or pay, or be discharged or dismissed, except as provided in KRS 16.140 and 16.150, and with the further exception that when insufficient funds require a reduction in expenditures, the officer or officers junior in point of service shall be first discharged.

**History:** Created 1948 Ky. Acts ch. 80, sec. 14.

### **16.170 Political activity forbidden**

No officer of the department shall, directly or indirectly, give, solicit or receive, or be in any manner concerned in giving, soliciting or receiving, any assessment, subscription or contribution for any political party or political purpose whatever. No officer shall, orally or by letter, solicit or be in any manner concerned in soliciting any assessment, subscription or contribution for any political party or purpose whatever from any person holding a position in the department. No officer of the department shall take any part in political management or affairs or in political campaigns further than to cast his vote and to express privately his opinion. Violation of the provisions hereof shall be grounds for removal.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 64, sec. 15, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 59, sec. 11, effective June 25, 2009. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4). -- Amended 1952 Ky. Acts ch. 57, sec. 5. -- Created 1948 Ky. Acts ch. 80, sec. 15.

## **B. TROOPER R / COMMERCIAL VEHICLE ENFORCEMENT OFFICER R CLASS**

### **16.199 Trooper R Class or commercial vehicle enforcement officer R Class to adhere to agency standards of conduct and policy -- Complaints.**

(1) All individuals employed as a Trooper R Class or commercial vehicle enforcement officer R class shall adhere to the agency standards of conduct and policy.

(2) Any person may proffer charges against an individual employed as a Trooper R Class or commercial vehicle enforcement officer R class by submitting a written complaint, signed by the complainant, with the Office of Internal Affairs within the department.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 64, sec. 4, effective June 25, 2013. -- Created 2009 Ky. Acts ch. 59, sec. 15, effective June 25, 2009.

## **C. PEACE OFFICER EMPLOYEES OTHER THAN TROOPERS**

### **16.186 Definitions for KRS 16.186 to 16.195.**

As used in KRS 16.186 to 16.195, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Secretary" means the secretary of the cabinet;
- (3) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (4) "Officer" means any individual appointed to one (1) of the positions established by KRS 16.187 who has the powers of a peace officer;
- (5) "Department" means the Department of Kentucky State Police; and
- (6) "Continuous service" for participation in and eligibility for the promotional process for each rank of commercial vehicle enforcement officer means:
  - (a) For sergeant, service as a commissioned officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;
  - (b) For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.192; and
  - (c) For captain, service in grade as a lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.192.

Effective: June 25, 2009

History: Created 2009 Ky. Acts ch. 75, sec. 1, effective June 25, 2009. Legislative Research Commission Note (6/25/2009). 2009 Ky. Acts ch. 75 sec. 1, provided that a new KRS Chapter 16A was to be established and a new section thereof was to be created for this statute. In codification, the Reviser of Statutes has instead created new sections of existing KRS Chapter 16 for 2009 Ky. Acts. ch. 75, secs. 1 to 10, under the authority of KRS 7.136(1)(a).

**16.187 Positions of commercial vehicle enforcement officer, commercial vehicle enforcement officer R Class, arson investigator officer, hazardous devices investigator officer, facilities security officer, and legislative security specialist created within department.**

(1) The following positions shall be created within the Department of Kentucky State Police:

- (a) Commercial vehicle enforcement officers;
- (b) Commercial vehicle enforcement officers R Class;
- (c) Arson investigator officers;
- (d) Hazardous devices investigator officers;
- (e) Facilities security officers; and
- (f) Legislative security specialists.

(2) These positions shall be appointed pursuant to KRS 16.188 and shall be utilized by the commissioner to enforce the laws of the Commonwealth and to comply with federal and state mandates.

Effective: July 15, 2016 History: Amended 2016 Ky. Acts ch. 6, sec. 2, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 64, sec. 5, effective June 25, 2013. -- Created 2009 Ky. Acts ch. 75, sec. 2, effective June 25, 2009.

**16.192 Removal, suspension, or reduction of grade or pay for positions created under KRS 16.187.**



(1) With the exceptions specified in this section and KRS 16.193, no officer commissioned under KRS 16.186 to 16.195 shall be removed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law or of any administrative regulation promulgated by the commissioner. Any person may present charges in writing against any officer, which shall be filed with the Office of Internal Affairs, which shall be designated by the commissioner as the recipient of charges and shall be administratively responsible for the maintenance of good order within the department through the collection and investigation of charges and the retention of their dispositions. The charges shall be signed by the person filing the charges, and shall set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall present charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the Office of Internal Affairs shall deliver a copy thereof, personally, by certified mail, return receipt requested, to the officer offending. Within five (5) days after the receipt thereof, the officer may demand a public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, or reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

(2) If the charges are denied and the officer demands a hearing within the time specified by subsection (1) of this section, he shall make his demand known to the commissioner in writing. After a demand for hearing has been made by the officer, the commissioner, within twenty (20) days from the date thereof, shall arrange for a public hearing before a trial board to be constituted in the manner provided in this section. The officer defendant shall be given not less than twenty (20) days notice of the time, place, and hour of the hearing.

(3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the department or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any Circuit Judge, upon application of the trial board or the commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or a refusal to testify in that court.

(4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.

(5) All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.

(6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and

the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.

(7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty percent (20%) for not more than six (6) months, or by removing or dismissing from the service of the department any officer so found guilty.

(8) For the purpose of hearing charges against any officer, as set forth in this section, there is created a trial board, which shall consist of the commissioner and a panel of ten (10) officers of the department appointed by the commissioner which shall be composed of six (6) commercial vehicle enforcement officers, two (2) facilities security officers, one (1) arson investigator officer, and one (1) hazardous devices investigator officer. The commissioner shall designate from the panel seven (7) members consisting of four (4) commercial vehicle enforcement officers, one (1) facilities security officer, one (1) arson investigator officer, and one (1) hazardous devices investigator officer, to hear charges against any officer in the manner and under the procedures established by this section. The commissioner may promulgate reasonable administrative regulations governing the procedure before the trial board that do not conflict with this section. The panel or trial board shall be a continuing body and the officers designated shall serve on the board or panel in addition to their other duties without any increase in compensation, except they may be reimbursed for meals, lodging, and traveling expenses incurred while in the performance of their official duties as members of the board or panel. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges, and another member substituted from the panel.

(9) No officer is entitled to a hearing as provided in this section unless his suspension is for more than twenty (20) days, or his pay reduced more than ten percent (10%), except that if the officer receives more than twenty (20) days suspension or reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to a hearing as provided by this section.

(10) Any officer appointed to the department under this section shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until the officer has been employed by the department for a period of one (1) year or more.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 64, sec. 15, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 59, sec. 11, effective June 25, 2009. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4), -- Amended 1952 Ky. Acts ch. 57, sec. 5. -- Created 1948 Ky. Acts ch. 80, sec. 15.

### **16.193 Appeal of judgment of trial board to Franklin Circuit Court -- Appeal of court's judgment to Court of Appeals.**

(1) Any officer of the department found guilty by the trial board of any charge as provided in KRS 16.192 shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court if the punishment is:

- (a) A suspension of more than twenty (20) days;
- (b) A pay reduction of more than ten percent (10%);
- (c) A grade reduction if his classification so warrants; or
- (d) Dismissal from the department.

The enforcement of the judgment of the trial board upon said charges shall not be suspended during the appeal.

(2) To perfect the appeal within the specified time, an officer shall file a copy of the order, all the evidence heard, and a full transcribed record relative to the charges with the Franklin County Circuit Clerk. The officer shall first post a bond to secure the cost of the action in a lump-sum amount to be approved by the circuit clerk, with corporate surety approved by the Office of Insurance as to solvency and responsibility and authority to transact business in this state, or the officer may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to the appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.

(3) The appeal shall be scheduled for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.

(4) No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party involved in the investigation of the charges or a member of the trial board. The court shall sit in appellate jurisdiction and shall not overturn the verdict of the trial board unless it finds:

- (a) The board acted without or in excess of its powers;
- (b) The order appealed from was procured by fraud; or
- (c) If questions of fact are at issue, whether any substantial evidence exists to support the order issued by the trial board. The court shall enter a judgment sustaining or setting aside the order of the trial board. The cost of the action shall follow the judgment of the court.

(5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure. The appeal shall be docketed within sixty (60) days from the entry of judgment, unless the time is extended by the Franklin Circuit Court, but in no event beyond one hundred twenty (120) days from the entry of judgment.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 64, sec. 15, effective June 25, 2013. -- Amended 2009 Ky. Acts ch. 59, sec. 11, effective June 25, 2009. -- Amended 1974 Ky. Acts ch. 74, Art. V, sec. 24(4), -- Amended 1952 Ky. Acts ch. 57, sec. 5. -- Created 1948 Ky. Acts ch. 80, sec. 15.



# **APPENDIX IV**

## **CHAPTER 18A**

### **STATE PERSONNEL**

#### **18A.095 Rights of executive branch employees.**

- (1) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (2) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
  - (a) The specific reasons for dismissal including:
    1. The statutory or regulatory violation;
    2. The specific action or activity on which the intent to dismiss is based;
    3. The date, time, and place of such action or activity; and
    4. The name of the parties involved;
  - (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee; and
  - (c) Whether the employee is placed on administrative leave by the appointing authority with pay upon receiving the intent to dismiss letter prior to the agency's final action.
- (3) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss and shall contain written instructions explaining:
  - (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
  - (b) The time limits and procedures to be followed by all parties in pre-termination hearings.
- (4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (5) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.
- (6) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
  - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
  - (b) Notify the employee in writing of the decision.
- (7) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:
  - (a) The effective date of his dismissal or other penalization;

- (b) The specific reason for this action, including:
  - 1. The statutory or regulatory violation;
  - 2. The specific action or activity on which the dismissal or other penalization is based;
  - 3. The date, time, and place of the action or activity; and
  - 4. The name of the parties involved; and
- (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- (8) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
  - (a) The demotion, suspension, or other penalization;
  - (b) The effective date of the demotion, suspension, or other penalization;
  - (c) The specific reason for the action including:
    - 1. The statutory or regulatory violation;
    - 2. The specific action or activity on which the demotion, suspension, or other penalization is based;
    - 3. The date, time, and place of the action or activity; and
    - 4. The name of the parties involved; and
  - (d) That he or she has the right to appeal to the board within sixty (60) days, excluding the day that he or she received notification of the personnel action.
- (9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- (10) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
  - 1. The reallocation; and
  - 2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification.
- (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration.
- (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.
- (11) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for

employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(12) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(13) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(14) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board.

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board.

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly.

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(15) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).

(16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms.

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney.

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal.

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(17) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(18) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100. (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(19) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(20) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board. (21) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(22) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal.

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action. (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(23) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(24) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate



reemployment list for employment in any similar position other than the one from which he had been removed.

(25) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(26) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(27) After a final decision in a contested case has been rendered by the last administrative or judicial body to which the case has been appealed, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.

(28) For the purposes of subsections (2), (3), (4), (5), (6), and (7) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Effective: April 13, 2010

History: Amended 2010 Ky. Acts ch. 153, sec. 8, effective April 13, 2010. -- Amended 2009 Ky. Acts ch. 75, sec. 15, effective June 25, 2009. -- Amended 2007 Ky. Acts ch. 85, sec. 104, effective June 26, 2007. -- Amended 2000 Ky. Acts ch. 501, sec. 2, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 154, sec. 23, effective July 15, 1998. and ch. 425, sec. 2, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 318, sec. 22, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 317, sec. 1, effective July 15, 1994; ch. 405, sec. 4, effective July 15, 1994; and ch. 475, sec. 1, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 202, sec. 1, effective July 14, 1992. -- Amended 1988 Ky. Acts ch. 250, sec. 1, effective July 15, 1988. -- Amended 1986 Ky. Acts ch. 494, sec. 16, effective July 15, 1986. -- Repealed, reenacted, and amended as KRS 18A.095, 1982 Ky. Acts ch. 448, sec. 19, effective July 15, 1982. -- Amended 1978 Ky. Acts ch. 269, sec. 6, effective June 17, 1978. -- Amended 1976 Ky. Acts ch. 86, sec. 9, effective March 29, 1976. -- Amended 1972 Ky. Acts ch. 13, sec. 6. -- Created 1960 Ky. Acts ch. 63, sec. 14. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.270.

### **18A.100 Appeal of final order of the Personnel Board.**

(1) Any final order of the board either upholding or invalidating the dismissal, demotion, suspension, or other penalization of a classified or an unclassified employee may be appealed either by the employee or by the appointing authority.

(2) The party aggrieved may appeal a final order by filing a petition with the clerk of the Franklin Circuit Court in accordance with KRS Chapter 13B.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 23, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 475, sec. 2, effective July 15, 1994. -- Repealed, reenacted, and amended as KRS 18A.100, 1982 Ky. Acts ch. 448, sec. 20, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 62, sec. 13. -- Created 1974 Ky. Acts ch. 147, sec. 1. 2016-2018 Budget Reference. See State/Executive Branch Budget, 2016 Ky. Acts ch. 149, Pt. I, C, 2, (1) at 1059. Formerly codified as KRS 18.272.



## **APPENDIX V**

### **CHAPTER 67A URBAN-COUNTY GOVERNMENT (Lexington-Fayette County only)**

#### **Merit and Pension Systems**

##### **67A.210 Definitions.**

(1) In KRS 67A.210 to 67A.350, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department or other executive unit other than those excluded under KRS 67A.220.

(b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution, under law, ordinance or comprehensive plan, and does not include any ratifying authority entitled to approve or disapprove an appointment.

(c) "Civil service" means the offices and positions of trust or employment in the service of the urban-county government not specifically excluded by KRS 67A.220 to 67A.340.

(d) "Commission" means the civil service commission as established under KRS 67A.230.

(e) "Comprehensive plan" means the plan for merger of local governments provided in this chapter.

(f) "Competitive examination" means the examination or evaluation described in KRS 67A.230 and 67A.240.

(g) "Dismissal" means the discharge of an employee.

(h) "Employee" means any person employed in the conduct of municipal affairs including an administrative or directorial position, but the term shall not include:

1. Officers elected by the voters, and persons appointed to fill vacancies in elective offices;
2. Members of all boards, commission and authorities established under the provisions of the comprehensive plan or by ordinance pursuant thereto;
3. The chief administrative officer as denominated in the comprehensive plan;
4. Department commissioners of all executive departments created by the comprehensive plan or by ordinance pursuant thereto;
5. All administrative assistants appointed by the mayor or highest elective executive officer under the provisions of the comprehensive plan and all secretaries excluded by the provisions of the comprehensive plan;
6. Temporary or part-time employees and all persons employed to conduct special inquiries, investigations or studies for the urban-county government;
7. Constitutional officers and their appointees.

(i) "Pension fund" means the moneys derived from the employees or the levy of a special tax, or any other sum derived from any other source, to be used for the retirement of employees after the prescribed years of service and for the benefit of disabled employees, and widows and dependent children in the case of death of an

employee within the scope of his employment according to the terms of KRS 67A.320 through 67A.340, the comprehensive plan, or the ordinances of the urban-county government, including retirement systems adopted pursuant to law.

(j) "Seniority" for purposes of KRS 67A.240, 67A.250, and 67A.270 refers to length of service as defined in the comprehensive plan or ordinance, but shall in each case include such service under cities, counties or other municipalities which have been merged into the urban-county government. Seniority and length of service for purposes of KRS 67A.320 and 67A.330 shall be in accordance with rules established by the comprehensive plan or ordinance, but shall in each case include service or seniority obtained under pension plans described in such sections existing in municipalities prior to the adoption of urban-county government, and shall in no case give credit to any service or seniority except in respect to such prior service in municipalities having such pension plans, or under urban-county governments, except that the urban-county government may purchase credits in lieu of seniority, the cost thereof being determined by the trustees of the pension fund, in accordance with sound actuarial principles, for employees whose seniority or length of service was under municipalities other than those described herein.

(2) The provisions of KRS 67A.230 to 67A.340 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds.

Effective: June 21, 1974

History: Created 1974 Ky. Acts ch. 246, sec. 1, effective June 21, 1974.

### **67A.220 Executive unit established -- Personnel duties -- Control by civil service commission.**

An urban-county government may by comprehensive plan or ordinance establish an executive unit charged with personnel matters. In the event such a unit is established, the urban-county government shall by comprehensive plan or ordinance delegate to such unit, in addition to its regular functions not related to this statute, the initial performance of all or a part of the functions described as functions of the commission in KRS 67A.230 to 67A.250 and 67A.270, but no other sections hereof, except that in any event the decisions of the said unit shall be subject to review, amendment or change by the commission. In the case of the certification of lists of eligible applicants for employment, such lists may be prepared by the executive unit, but shall be submitted to the appointing authority only after approval of the commission; and in respect of all other matters delegated, periodic reports shall be made by the unit to the commission, not less than monthly, and any directions of the commission, or any proposed alterations or changes in the action of the unit shall be promptly complied with by the unit. The legislative body of the urban-county government, subject to its comprehensive plan, may from time to time, revoke such delegation of authority to the executive unit, and may establish reasonable procedures for review of the actions of the executive unit, not in conflict with the provisions hereof, and not in conflict with the principle that personnel policy should in the first instance be determined by professional and trained personnel experts, but subject to the control of the civil service commission. All other provisions of this section notwithstanding, in the event that the commission amends, alters or changes any action of the unit, or in the event that the commission gives any

directions to the unit as provided herein, or in any way acts to control the unit as provided herein, such amendment, change, alteration, direction or control shall be in writing and shall be supported by findings, which findings shall be supported by substantial evidence of the error of the unit.

Effective: June 21, 1974

History: Created 1974 Ky. Acts ch. 246, sec. 2, effective June 21, 1974.

### **67A.230 Civil service commission -- Membership -- Terms -- Rule-making and enforcement powers.**

(1) Any urban-county government shall operate under KRS 67A.230 to 67A.350, and, by comprehensive plan or ordinance, create a civil service commission, which shall hold culture-fair, open examinations or evaluations to determine the relative fitness of applicants for municipal employment within the urban-county government that are designated by comprehensive plan or ordinance. The urban-county government shall, by ordinance, create civil service classifications for all employees consistent with the actual work to be performed by such employees.

(2) The mayor, or other appointing authority, as determined by the comprehensive plan, subject to the approval of the urban-county government legislative body, shall appoint five (5) persons who shall constitute the civil service commission of that urban-county government. No appointee shall be related by either blood or marriage to the mayor or any member of the urban-county legislative body. The appointees shall originally be appointed, two (2) for a term of two (2) years and three (3) for a term of four (4) years, and the successors to these appointees shall be appointed in like manner, each for a period of four (4) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. There shall be chosen by the commission a secretary of the commission. The secretary shall be an employee of the urban-county government who is covered by the provisions of KRS 67A.220 to 67A.310. Each appointee shall qualify by taking an oath of office as required by law. The salaries, if any, of the members of the commission may be fixed by the urban-county government legislative body in accordance with its comprehensive plan.

(3) If the appointing authority of any urban-county government fails to appoint a civil service commission within ninety (90) days after he has the power to so appoint or after a vacancy exists, the vice mayor, or the second ranking elected executive officer of the urban-county government, however designated, shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce culture-fair rules, not inconsistent with the provisions of KRS 67A.220 to 67A.310, or the comprehensive plan or the ordinance of the urban-county government, for examinations and registrations therefor.

Effective: June 21, 1974

History: Created 1974 Ky. Acts ch. 246, sec. 3, effective June 21, 1974

## **67A.240 Examinations -- Rating -- Eligible list -- Administrative regulations.**

(1) The civil service commission shall prescribe and propound such said examinations as are proper, commensurate with vacant positions within the various departments of the urban-county government, according to classification prescribed by ordinance, shall set such times and places for holding examinations as may be proper and shall give public notice of vacancies by publication pursuant to KRS Chapter 424, and shall give actual notice to all eligible applicants of time and place of examinations. Provided, however, that the civil service commission may prescribe and propound job descriptions which reasonably establish minimum qualifications and standards for eligibility to take such examinations, but in no event shall such job descriptions be a subterfuge for the evasion of the requirement that employment be determined on the basis of the principles set out herein.

(2) The civil service commission shall, as soon after examinations as is practicable, certify to the appointing authority, a list of the applicants so examined, with the one having the highest average ranked first, and all others ranked numerically according to the result of the examination. After the compilation of such a list the commission may provide for further, substantially identical examinations, given on the same basis as the original examination, to supplement the list so compiled, and the results of each such subsequent examination shall be consolidated with the results of the prior examinations to provide an eligible list from among all of those who have taken such several examinations.

(3) Every soldier, sailor, marine, members of the air forces, Army Nurses Corps and members of other branches of the military services and Red Cross nurses who served during a period of hostilities between the United States and another power in World War II, the Korean or Vietnam conflict, the Persian Gulf War, Operation Iraqi Freedom, or Operation Enduring Freedom, who has not been dishonorably discharged, and who is an applicant for any position of civil service of the urban-county government shall be entitled to five percent (5%) increase on his examination mark on entrance into civil service employment.

(4) The civil service commission of urban-county governments shall maintain an eligible list of all individuals who, based on the outcome of examinations, are qualified for each position to be filled.

(5) The legislative body may designate certain civil service positions and prescribe that for such positions the examinations shall first be given exclusively to current employees; provided, however, that if no employee with a minimum of six (6) months' seniority achieves a passing grade, an examination shall be held in accordance with subsection (1) of this section, and shall be held, if less than five (5) such persons achieve a passing grade if the appointing authority so determines.

(6) Upon the approval of the civil service commission, the appointing authority may promulgate administrative regulations to carry out the provisions of this section.

Effective: June 25, 2013

History: Amended 2013 Ky. Acts ch. 128, sec. 1, effective June 25, 2013. -- Amended 1996 Ky. Acts ch. 273, sec. 1, effective July 15, 1996. -- Created 1974 Ky. Acts ch. 246, sec. 4, effective June 21, 1974.

## **67A.280 Dismissal, suspension, or reduction.**

(1) No employee in the classified service of urban-county government, after serving a probationary period provided by comprehensive plan or ordinance for his class, which shall not be in excess of six (6) months, shall be dismissed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law involving moral turpitude.

(2) Any person may prefer charges in writing against any employee by filing them with the appointing authority who shall communicate the charges without delay to the head of the executive unit in charge of personnel matters, and to the civil service commission. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he believes guilty of conduct justifying his removal or disciplinary action. Upon the filing of charges, the secretary of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place, and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the secretary of the civil service commission.

(3) Upon the hearing, the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges, provided, however, that the charges may be amended prior to trial, in which event the notice procedures hereinabove described shall be again complied with, and reasonable opportunity given for the preparation for trial on the amended charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the secretary of that body and served upon the witnesses by members of the police department of the urban-county government or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the secretary. Subpoenas may be served on the request of the accused employee without charge. They shall be issued by the secretary and served by the police department. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or executive unit or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment, he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended, or dismissed except as provided in this section.

(7) Irrespective of the other provisions of KRS 67A.230 to 67A.310, an employee may be suspended by the head of the executive unit in which he is employed, or by the appointing authority, but only as provided by comprehensive plan or ordinance, for a period not exceeding 30 days in any twelve (12) month period, and may be reprimanded by such head or authority not more than twice in any twelve (12) month period. In such event, the actions of such head or appointing authority shall be subject to appeal to the commission. Such appeal shall be filed with the secretary of the commission within ten (10) days of the action of the unit head or appointing authority, and may be reviewed, reduced, or revoked by the commission after a hearing in which the unit head or appointing authority shall have reasonable opportunity under rules established by the commission, to support his charges. The grounds of suspension or reprimand under this subsection shall be only those set out by comprehensive plan or ordinance. The commission shall further have the power, in the event it finds that the unit head or appointing officer acted in error, to take such action as shall be necessary to compensate the appealing employee for such error. An appeal by an employee shall not suspend the operation of the action of the unit head or appointing authority pending action of the commission.

(8) Nothing herein shall prevent the comprehensive plan or ordinance from providing additional remedies and rights to employees.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 51, effective January 2, 1978. -- Created 1974 Ky. Acts ch. 246, sec. 8, effective June 21, 1974.

### **67A.290 Appeal to Circuit Court and Court of Appeals.**

(1) Any employee of the urban-county government found guilty by the civil service commission of any charge as provided by KRS 67A.280 or any action upheld under subsection (7) of the said section, or any amendment thereto, may appeal to the Circuit Court of the county in which the urban-county government is located within thirty (30) days after such action becomes final, but the enforcement of the judgment of the civil service commission shall not be suspended pending appeal.

(2) Upon request in writing by the accused and the payment of costs therefor, the secretary of the civil service commission shall file a certified copy of the charges and the judgment of that body in the Circuit Court. Upon the transcript being filed the case shall be docketed in the Circuit Court and tried de novo.

(3) If the secretary fails to certify the transcript to the Circuit Court within five (5) days after the request is made, then the aggrieved person may file an affidavit in that court setting out as fully as possible the charges made at the time of trial and judgment, together with a statement that demand for the transcript had been made of the secretary more than five (5) days prior to the filing of the affidavit. Upon filing of this affidavit in the Circuit Court, the case shall be docketed in that court and the court may compel the



filing of the transcript by the secretary by entering proper mandatory order, and upon failure of the secretary so to do, he shall be liable to fine and imprisonment for contempt. Such appeal shall have precedence over other business and be determined speedily.

(4) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases, if the original punishment fixed by the civil service commission was dismissal of the accused. An appeal will also lie from the judgment of a Circuit Court in any controversy arising under this section or any other section of the statutes relating to civil service for urban-county governments.

Effective: June 21, 1974

History: Created 1974 Ky. Acts ch. 246, sec. 9, effective June 21, 1974.

### **67A.300 Number of employees -- Salaries -- Protection from dismissal, suspension, or reduction -- Abolishment of office or position -- Reinstatement.**

(1) The urban-county legislative body shall fix by ordinance the number and classification of urban-county employees, and the salaries for each classification. When the number of employees and their classification has been fixed by comprehensive plan or ordinance, including any ordinance of a city or other municipality existing prior to the adoption of the urban-county form of government, which prior ordinance is adopted for any period of time by the urban-county government under its comprehensive plan or ordinance, no employee shall be dismissed, suspended or reduced in grade or pay for any reason except that set out in KRS 67A.280.

(2) Provided, further, that: whenever in the exercise of a reasonable discretion, it shall be the judgment of the legislative body of the urban-county government that economic necessity requires it, or that there is no longer a need for a particular office or position to exist, the legislative body may abolish said office or position and any officer or employee occupying said office or position may be laid-off or suspended until and if such office or position is re-created or reestablished. The abolition of any office or position must not be a subterfuge to effect another purpose, but must be actual and bona fide and must not amount to the mere alteration, modification or abolition of title only.

(3) Should any officer or employee conceive that he has been aggrieved by the abolition or the proposed abolition of said office or position, he may, at any time within ninety (90) days, file a petition in the Circuit Court of the county wherein the urban-county government is located, stating his reason why it should not be abolished, and upon issue joined thereon by the urban-county government, the burden shall be on the latter to establish the necessity for and the good faith of the urban-county government in abolishing said office or position. The right to abolish and the right to have the office or position re-created shall be determined as other equitable actions are determined.

(4) If the office or position is re-created or reestablished within one (1) year, then any person who was deprived of his office or position shall be restored to the office or position he formerly held or occupied in the order of his seniority if he shall elect to do so, and the urban-county government shall advise said officer or employee at his last known address and advertise pursuant to KRS Chapter 424, that the office or position has been re-created or reestablished.

Effective: June 21, 1974  
History: Created 1974 Ky. Acts ch. 246, sec. 10, effective June 21, 1974.

### **67A.310 Prohibition of political activities.**

(1) No person shall be appointed to any position because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation nor shall any person be dismissed, suspended or reduced in grade or pay because of any political opinion.

(2) The appointment and continuance of employment of all persons shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds.

(3) No employee shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employee shall be active in politics or work for the election of candidates while on duty.

Effective: July 13, 1984  
History: Amended 1984 Ky. Acts ch. 120, sec. 1, effective July 13, 1984. -- Created 1974 Ky. Acts ch. 246, sec. 11, effective June 21, 1974.

## **A. Collective Bargaining for Police Officers and Firefighters in Urban-County Government**

### **67A.6901 Definitions for KRS 67A.6901 to 67A.6911. As used in KRS 67A.6901 to 67A.6911:**

(1) "Secretary" means the secretary of the cabinet;

(2) "Corrections personnel" means an employee of an urban-county government permanently assigned to a detention facility and working in any capacity in that detention facility;

(3) "Cabinet" means the Kentucky Labor Cabinet;

(4) "Exclusive representative" means the labor organization which has been designated by the cabinet as the representative of the majority of police officers, firefighter personnel, firefighters, or corrections personnel in appropriate units or has been so recognized by the urban-county government;

(5) "Firefighter" means an employee of an urban-county government engaged in serving the public by providing fire protection, including those covered by KRS Chapter 95;

(6) "Firefighter personnel" means dispatch communications officers;

(7) "Labor organization" means any chartered labor organization of any kind in which police officers, firefighter personnel, firefighters, or corrections personnel participate and which exists for the primary purpose of dealing with urban-county governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(8) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and

(9) "Police officer" means an employee, sworn or certified, of an urban-county government who participates in the Law Enforcement Foundation Program Fund provided in KRS 15.410 to 15.510.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 59, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 177, sec. 1, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 1, effective July 13, 2004.

### **67A.6902 Employees' right to organize for the purpose of collective bargaining.**

(1) Police officers, firefighter personnel, firefighters, and corrections personnel of an urban-county government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the cabinet as the representative of the majority of police officers, firefighter personnel, firefighters, or corrections personnel in an appropriate unit or recognized by an urban-county government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by an urban-county government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interests of all police officers, firefighter personnel, firefighters, or corrections personnel in the unit without discrimination.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 60, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 177, sec. 2, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 2, effective July 13, 2004.

### **67A.6904 Activities prohibited and duty to bargain in good faith.**

(1) Urban-county governments and their representatives and agents are prohibited from:

(a) Interfering, restraining, or coercing police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the rights guaranteed in KRS 67A.6902;

(b) Dominating or interfering with the formation, existence, or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations and their agents are prohibited from:

(a) Restraining or coercing:

1. Police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the right guaranteed in KRS 67A.6902; and

2. An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or

(b) Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers, firefighter personnel, firefighters, or corrections personnel in an appropriate unit.

(3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 177, sec. 4, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 4, effective July 13, 2004.

### **67A.6906 Unfair labor practices and remedies therefor -- Hearing -- Findings -- Expenses.**

Violations of the provisions of KRS 67A.6904 shall be deemed to be unfair labor practices remedial by the cabinet in the following manner.

(1) Whenever it is charged by an urban-county government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the cabinet or any hearing officer designated by the cabinet shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If, upon the preponderance of the evidence presented, the cabinet is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers, firefighter personnel, firefighters, or corrections personnel with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the cabinet is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the cabinet shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the cabinet, unless the person aggrieved thereby was prevented from filing the charge by reason of

service in the Armed Forces, in which event, the six (6) month period shall be computed from the day of his or her discharge. No final order of the cabinet shall require the reinstatement of any individual as a police officer, firefighter personnel, firefighter, or corrections personnel who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the cabinet at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The cabinet or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the cabinet may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 62, effective July 15, 2010. -- Amended 2006 Ky. Acts ch. 177, sec. 6, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 6, effective July 13, 2004.

#### **67A.6908 Requirements for an agreement -- Enforcement in Circuit Court.**

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the urban-county government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the urban-county government or his or her representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between an urban-county government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police officers, firefighter personnel, firefighters, or corrections personnel represented by a labor organization.

(3) Suits for violation of agreements between an urban-county government and a labor organization representing police officers, firefighter personnel, firefighters, or corrections personnel may be brought by the parties to the agreement in the Circuit Court of the urban-county government.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 177, sec. 7, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 8, effective July 13, 2004. 67A.6910 Police officers, firefighter personnel, firefighters, corrections personnel, and labor organizations not to participate in strike. No police officer, firefighter personnel, firefighter, or corrections officer of an urban-county government shall engage in, and no police officer labor organization, firefighter personnel labor organization, firefighter labor organization, or corrections officer labor organization shall sponsor or condone, any strike. Effective: July 12, 2006 History: Amended 2006 Ky. Acts ch. 177, sec. 9, effective July 12, 2006. -- Created 2004 Ky. Acts ch. 100, sec. 10, effective July 13, 2004.



# **APPENDIX VI**

## **CHAPTER 67C**

### **RESTRUCTURE OF LOCAL GOVERNMENT IN COUNTY CONTAINING CITY OF FIRST CLASS**

#### **A. Police Force Merit System in Consolidated Local Government:**

##### **67C.301 Definitions for KRS 67C.301 to 67C.327.**

As used in KRS 67C.301 to 67C.327, unless the context otherwise requires:

- (1) "Board" means the consolidated local government police force merit board or boards hereinafter created.
- (2) "Chief" means a chief of a consolidated local government police force affected by KRS 67C.301 to 67C.327.
- (3) "Assistant chief" means the next in command to the chiefs of the consolidated local government police force or forces affected by KRS 67C.301 to 67C.327.
- (4) "Secretary" means the executive secretary employed by the consolidated local government police force merit board or boards created as provided by KRS 67C.301 to 67C.327.
- (5) "Officer" means any member of the consolidated local government police forces affected by KRS 67C.301 to 67C.327, including police officers, corporals, sergeants, lieutenants, and captains.

Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 1, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 1, effective July 15, 2002.

##### **67C.303 Ordinance creating merit system and merit board -- Duties of board -- Appropriation of funds for expenses of board.**

- (1) A consolidated local government shall, by ordinance, create a consolidated local government police force merit system and in the same ordinance shall establish a consolidated local government police force merit board. A board shall classify and examine applicants seeking employment as officers of the police force of the consolidated local government, excluding applicants for the positions of chief, assistant chief, and officers above the rank of captain. The board, except when prohibited, shall promulgate rules and regulations not inconsistent with KRS 67C.301 to 67C.327 governing the classification, qualification, examination, appointment, probation, promotion, demotion, suspension, and other disciplinary action within the consolidated local government police force of all officers affected and covered by the provisions of KRS 67C.301 to 67C.327, and shall hold hearings and impose, if necessary, penalties upon the personnel affected by KRS 67C.301 to 67C.327.

(2) The legislative council of the consolidated local government shall annually appropriate funds for the reasonable and necessary expenses of the board.

Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 1, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 1, effective July 15, 2002.

### **67C.307 First meeting of board -- Officers -- Rules -- Voting.**

(1) The board shall meet within thirty (30) days of the creation of the board and the members shall select from among themselves a chairman and vice chairman and adopt such rules, regulations, and bylaws not inconsistent with KRS 67C.301 to 67C.327 for the necessary operation of the board. In all non-disciplinary matters requiring a vote, a majority of the board members present and voting shall determine any questions, provided that at least three (3) board members are present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board shall be present to constitute a quorum, one (1) of which shall be a police officer as defined in KRS 67C.305(3).

Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 1, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 1, effective July 15, 2002.

### **67C.313 Police officers deemed qualified to continue duties and to be permanent employees -- Probationary officers.**

(1) All police officers of whatever rank and title of a consolidated local government police force shall be covered by the provisions of this section, except probationary officers. All officers of a consolidated local government police force on active duty or service as of the effective date of an ordinance creating a consolidated local government police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for the consolidated local government police force without examination or further qualification.

(2) All personnel covered by the provisions of this section, except probationary officers, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

(3) A probationary officer shall not be included in the merit system until that officer has satisfactorily completed his or her initial probationary period which shall be one (1) year from his or her sworn date. The one (1) year probationary period may be extended for up to six (6) months upon showing of just cause by the chief and approved by the board.

(4) Officers covered by the provisions of KRS 67C.303 and serving promotional probationary periods shall not be deemed excluded from the merit system during the promotional probationary periods.



Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 1, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 1, effective July 15, 2002.

**67C.315 Application to chief, assistant chief, and officers above the rank of captain.**

(1) The provisions of KRS 67C.303, 67C.305, 67C.307, 67C.309, and 67C.319 shall not apply to the chief of police, assistant chief, and any officers above the rank of captain of the consolidated local government police force. These officers shall be appointed by the mayor and shall not be considered covered under the employment protections of the merit board, except as provided in subsection (2) of this section.

(2) Any officer originally covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 who shall accept an appointment and qualify as chief of police, assistant chief of police, or officer above the rank of captain shall be deemed to have received a leave of absence from the classified service for and during his or her service in either of these respective positions. Should any chief of police, assistant chief of police, or officer above the rank of captain cease to serve in that capacity, he or she shall be restored to the same classification and rank which he or she held prior to the appointment without loss of seniority in grade. Any person not covered by the provisions of KRS 67C.303, 67C.305, 67C.307, and 67C.309 when appointed to the position of chief of police, assistant chief of police, or officer above the rank of captain shall not be deemed to be part of the classified service and shall not be placed in any classification or rank in the classified service when he or she ceases to serve in that position unless he or she goes through the normal qualification and classification procedures required by the board.

Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 6, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 8, effective July 15, 2002.

**67C.317 Soliciting and receiving political contributions -- Appointment or promotion for political service -- Discipline for failure to make political contribution -- Opinions and beliefs -- Political or religious controversies -- Political activity prohibited.**

(1) No officer while on duty or in uniform covered by the provisions of KRS 67C.301 to 67C.327 shall directly or indirectly solicit or receive or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) To person shall use or promise to use his or her personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 67C.301 to 67C.327, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 67C.301 to 67C.327 shall sign or execute or promise to sign or execute a resignation dated or undated in advance

of his or her appointment or promotion. No officer covered by the provisions of KRS 67C.301 to 67C.327 shall be suspended, laid off, demoted, promoted, disciplined, or threatened, or in any way changed in rank, duty, or compensation for withholding or neglecting to pay or make any contribution of any sort, either in money, goods, services, or anything of value for any political purpose whatsoever.

(3) No examination question on any examination given by the board shall relate to any political or religious opinion, belief, affiliation, or service and no appointment, promotion, demotion, suspension, or removal shall be brought about, affected, or influenced by these opinions, beliefs, affiliations, or services.

(4) No officer covered by the provisions of KRS 67C.301 to 67C.327 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) No officer covered by KRS 67C.301 to 67C.327 and no probationary officer shall, while on duty, in uniform, or using public resources, propose or oppose the placement of a question or advocate for the adoption or defeat of a question to be voted upon by the voters of the government under which the officer is employed.

(6) Nothing contained in KRS 67C.301 to 67C.327 shall be so construed as to abridge the rights of any officer with respect to his or her personal opinions, beliefs, and right to vote.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 135, sec. 2, effective July 15, 2008. -- Amended 2003 Ky. Acts ch. 118, sec. 7, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 9, effective July 15, 2002.

### **67C.319 Rules for qualification, appointment, and discipline of officers -- Chief examiner -- Promotional examinations -- Review of results -- Filling promotional vacancies.**

(1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) Physical, mental, educational, citizenship, and age requirements for new officers;

(b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;

(c) A requirement that police officers have five (5) years of service as police officers before being eligible for promotion to the rank of sergeant;

(d) Provision for open, competitive, written, oral, and other mental and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;

(e) A requirement of public notice of all examinations to be given by the merit board;

(f) Organization and meetings of the board; and

(g) Procedure and conduct of public hearings.

(3) The board, with the approval of the mayor, shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written or other examinations as required by the board.

(4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.

(6) Promotional tests shall be graded, as determined by the board, to include written, oral, and other examination scores. In addition, seniority, not to exceed ten percent (10%) of a candidate's final evaluated rating, shall be awarded for each year of service. The results of the written, oral, and other examinations shall be combined with seniority to determine the applicant's final evaluated rating. If the number of candidates exceeds the number of positions in the rank for which the candidates are being tested, the chief examiner may set a cut-off score on any of the tests, excluding seniority, that candidates must meet or exceed in order for them to progress in the selection process. The cut-off score shall be set such that the number of candidates equals one-half ( $1/2$ ) the number of positions in the rank for which the candidates are being tested, that number to be rounded up, at the time of the posting. If ties exist at the cut-off score, individuals having tied scores shall progress in the selection process.

(7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.

(8) The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.

(9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate with the higher evaluated rating who has been certified for promotion four (4) times. If the board determines that the candidate's non-promotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for

two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 131, sec. 1, effective June 26, 2007. -- Amended 2003 Ky. Acts ch. 118, sec. 8, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 10, effective July 15, 2002.

### **67C.321 Actions taken by chief against officers -- Written statement -- Answer -- Citizen charges of misconduct.**

(1) Any officer may be removed, suspended for a period not to exceed thirty (30) days, laid off, or reduced in grade by the chief for any cause which promotes the efficiency of the services, but before any such action is taken by the chief against any officer, the chief shall furnish the officer concerned with a written statement of the reasons why the described action is being taken. The officer may be reduced, removed, suspended for a period not to exceed thirty (30) days, or laid off from the date the written statement of reasons is served upon her or him. Each officer removed, suspended for a period not to exceed thirty (30) days, laid off, or reduced in grade shall be allowed a period of ten (10) days within which the officer may file a written answer to the charges and the reasons which caused her or his suspension, removal, or reduction. This answer shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except at the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for her or his action to the board.

(2) Any citizen who makes written, sworn charges of misconduct concerning the actions of any police officer shall present the charges to the chief of police who shall investigate the charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 131, sec. 1, effective June 26, 2007. -- Amended 2003 Ky. Acts ch. 118, sec. 8, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 10, effective July 15, 2002.

### **67C.323 Review of disciplinary actions -- Hearings -- Appeal.**

In all cases provided for in KRS 67C.321, the action of the chief shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, or demotion of a nonprobationary officer made by the chief shall be subject to review by the board at the request of any officer affected by KRS 67C.301 to 67C.327. An appeal to the board of a dismissal, demotion, or forty (40) hour or more suspension of a nonprobationary officer shall be heard by the full board. The board shall give notice and hold a public hearing. After the hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that

the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board, and the board may impose the penalty or punishment it deems necessary and appropriate, if any; provided however, the board shall not impose a penalty or punishment in excess of the action of the chief. No officer shall be removed or dismissed except as provided for in this section.

(2) An appeal to the board of a suspension of a nonprobationary officer of less than forty (40) hours may be heard by the full board or any hearing officer secured by the board. If the appeal is heard by a hearing officer, all rules established by the board relating to appeals of disciplinary actions shall be applicable. After the hearing, the hearing officer shall complete and submit to the board, no later than thirty (30) days after the hearing, a written recommended order which shall include his findings of fact, conclusions of law, and recommended disposition of the appeal, which may include recommended penalties. The recommended order shall also include a statement advising the appealing officer and chief fully of their exception and appeal rights. A copy of the hearing officer's recommended order shall be sent to the appealing officer and chief. Each party shall have fifteen (15) days from the date the recommended order is mailed within which to file exceptions to the recommendations with the board. The board shall consider the record including the recommended order in any exceptions duly filed to a recommended order, and accept and adopt or reject or modify, in whole or in part, the recommended order, or remand the appeal of the matter, in whole or in part, to the hearing officer for further proceedings as appropriate. The final order of the board shall be in writing. If the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The board shall render a final order in an administrative hearing within thirty (30) days after receipt of the hearing officer's recommended order.

(3) (a) Every action of a dismissal, suspension, or demotion made by the board shall be final, except that any person aggrieved may, within thirty (30) days after the action, appeal to the Circuit Court of the county in which the board meets. The board shall be named respondent as the consolidated local government police force merit board, and service shall be had on the chairman of the board. Notice of the appeal shall be given to the chief or the officer if not already a party to the appeal as real parties in interest. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action with appropriate judicial review of an administrative action or decision.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to the appeal to the Court of Appeals shall be the same as in any civil action.

Effective: June 25, 2013

History: Amended 2013 Ky. Acts ch. 95, sec. 3, effective June 25, 2013. -- Amended 2003 Ky. Acts ch. 118, sec. 10, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 12, effective July 15, 2002.

### **67C.325 Rights of officer brought before board -- Subpoenas.**

Procedural due process shall be afforded to any police officer brought before the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his or her accusers, and have the privilege of presenting the board with

evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefits of the officer or the chief at the request of the officer or the chief.

Effective: March 18, 2003

History: Amended 2003 Ky. Acts ch. 118, sec. 11, effective March 18, 2003. -- Created 2002 Ky. Acts ch. 339, sec. 13, effective July 15, 2002.

### **67C.326 Review of citizen complaints against police officers.**

(1) In order to establish a minimum system of professional conduct of the police officers of consolidated local governments of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the consolidated local government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:

(a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:

1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;
2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;
3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;
4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively;

(b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period, shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in writing of the reasons for the suspension;

(c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the

department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;

(d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including but not limited to the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;

(e) Any charge involving violation of any consolidated local government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;

(f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the consolidated local government or the police officer so charged, until final disposition of the charges;

(g) No police officer as a condition of continued employment by the consolidated local government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and

(h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours' notice of any hearing;

2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;

3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;

4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;

5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;

6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other

body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;

7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;

8. For any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and

9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.

(2) Any police officer who shall be found guilty by any hearing authority of any charge may bring an action in the Circuit Court in the county in which the consolidated local government is located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.

(3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing in this section shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the consolidated local government by statute, ordinance, or working agreement.

Effective: June 24, 2015

History: Created 2015 Ky. Acts ch. 119, sec. 2, effective June 24, 2015

## **B. Collective Bargaining for Police Officers in Consolidated Local Government:**

### **67C.400 Definitions for KRS 67C.400 to 67C.418.**

As used in KRS 67C.400 to 67C.418:

(1) "Cabinet" means the Kentucky Labor Cabinet;

(2) "Labor organization" means any chartered labor organization of any kind in which police officers participate and which exists for the primary purpose of dealing with consolidated local governments concerning grievances, labor disputes, wages, rate of pay, hours of employment, or conditions of employment;

(3) "Exclusive representative" means the labor organization which has been designated by the cabinet as the representative of the majority of police officers in appropriate units or has been so recognized by the consolidated local government;



(4) "Person" includes one (1) or more individuals, labor organizations, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers; and

(5) "Secretary" means the secretary of the Labor Cabinet of the Commonwealth of Kentucky.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 64, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 101, sec. 1, effective July 13, 2004.

#### **67C.402 Employees' right to organize for the purpose of collective bargaining -- Mayor to represent consolidated local government.**

(1) Police officers of a consolidated local government shall have, and shall be protected in the exercise of, the right of self-organization, to form, join, or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment free from interference, restraint, or coercion.

(2) Labor organizations designated by the cabinet as the representative of the majority of police officers in an appropriate unit or recognized by a consolidated local government as the representative of the majority of employees in an appropriate unit shall be the exclusive representative for the employees of that unit for the purpose of collective bargaining with respect to rates of pay, wages, hours, and other conditions of employment.

(3) Labor organizations recognized by a consolidated local government as the exclusive representative or so designated in accordance with the provisions of this section shall be responsible for representing the interest of all police officers in the unit without discrimination.

(4) When a labor organization has been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit, the mayor of a consolidated local government or his designated authorized representative shall represent the consolidated local government in collective bargaining with the labor organization.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 64, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 101, sec. 1, effective July 13, 2004.

#### **67C.406 Activities prohibited and duty to bargain in good faith.**

(1) Consolidated local governments, their representatives, or their agents are prohibited from:

(a) Interfering, restraining, or coercing police officers in the exercise of the rights guaranteed in KRS 67C.402;

(b) Dominating or interfering with the formation, existence, or administration of any labor organization;

(c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor

organization; provided that nothing in this section, or in any other statute of this state, shall preclude a consolidated local government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later;

(d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or

(e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(2) Labor organizations or their agents are prohibited from:

(a) Restraining or coercing:

1. Police officers in the exercise of the right guaranteed in KRS 67C.402; and

2. A consolidated local government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or

(b) Refusing to bargain collectively in good faith with a consolidated local government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit.

(3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Effective: July 13, 2004

History: Created 2004 Ky. Acts ch. 101, sec. 4, effective July 13, 2004.

### **67C.410 Unfair labor practices and remedies therefor -- Hearing -- Final order -- Appeal to Circuit Court.**

Violations of the provisions of KRS 67C.406 shall be deemed to be unfair labor practices remedial by the cabinet in the following manner.

(1) Whenever it is charged by a consolidated local government or a labor organization that any person has engaged in or is engaging in any unfair labor practices, the cabinet or any hearing officer designated by the cabinet shall conduct an administrative hearing in accordance with KRS Chapter 13B.

(2) If, upon the preponderance of the evidence presented, the cabinet is of the opinion that any person named in the charge has engaged in or is engaging in an unfair labor practice, then it shall issue a final order requiring the person to cease and desist from the unfair labor practice, and to take any affirmative action including reinstatement of police officers with or without back pay, as will effectuate the policies of this section. The final order may further require the person to make reports from time to time showing the

extent to which he or she has complied with the order. If, upon the preponderance of the evidence presented, the cabinet is not of the opinion that the person named in the charge has engaged in or is engaging in the unfair labor practice, then the cabinet shall issue a final order dismissing the complaint. No final order shall issue based upon any unfair labor practice occurring more than six (6) months prior to the filing of the charge with the cabinet, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the Armed Forces, in which event the six (6) month period shall be computed from the day of his or her discharge. No final order of the cabinet shall require the reinstatement of any individual as a police officer who has been suspended or discharged, or the payment to the individual of any back pay, if the individual was suspended or discharged for cause.

(3) Until a final order has been appealed, the cabinet at any time, upon reasonable notice and in the manner that it deems proper, may modify or set aside, in whole or in part, any final order made or issued by it.

(4) The cabinet or the charging party may petition for the enforcement of the final order and for appropriate temporary relief or restraining order in the Circuit Court for the county in which the violation occurred.

(5) Any person aggrieved by a final order of the cabinet may obtain a review of the final order by filing a petition in the Circuit Court assigned jurisdiction under subsection (4) of this section in accordance with KRS Chapter 13B.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 67, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 101, sec. 6, effective July 13, 2004.

#### **67C.414 Requirements for an agreement -- Enforcement in Circuit Court.**

(1) Any agreement reached by the negotiators shall be reduced to writing and shall be executed by both parties.

(2) An agreement between the consolidated local government and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this section and signed by the mayor of the consolidated local government or the mayor's representative. No publication thereof shall be required to make it effective. The procedure for the making of an agreement between a consolidated local government and a labor organization provided by this section shall be the exclusive method of making a valid agreement for police officers represented by a labor organization.

(3) Suits for violation of agreements between a consolidated local government and a labor organization representing police officers may be brought by the parties to the agreement in the Circuit Court of the consolidated local government.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 67, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 101, sec. 6, effective July 13, 2004.

#### **67C.418 Police officer or labor organization not to participate in strike.**

No police officer of a consolidated local government shall engage in, and no police officer labor organization shall sponsor or condone, any strike.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 67, effective July 15, 2010. -- Created 2004 Ky. Acts ch. 101, sec. 6, effective July 13, 2004.

# **APPENDIX VII**

## **CHAPTER 70**

### **SHERIFFS, CONSTABLES, COUNTY POLICE FORCE**

#### **A. SHERIFFS**

##### **70.030 Deputy sheriffs -- Certified court security officers -- Nonsworn personnel -- Participation in Law Enforcement Foundation Program.**

(1) The sheriff may appoint his or her own deputies and may revoke the appointment at his or her pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a consolidated local government or city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his or her office, he or she shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint his or her own certified court security officers and may revoke the appointment at his or her pleasure. A certified court security officer shall take an oath to faithfully perform the duties of his or her office and that he or she possesses the minimum qualifications under KRS 15.3971.

(3) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him or her in the performance of the duties of his or her office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(4) No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

(5) Except for certified court security officers, a sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Program Fund authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the consolidated local government or the fiscal court to establish a deputy sheriff merit board.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 54, sec. 11, effective June 26, 2007. -- Amended 2002 Ky. Acts ch. 346, sec. 67, effective July 15, 2002. -- Amended 1998 Ky. Acts ch. 606, sec. 57, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 104, sec. 1, effective July 15, 1996. -- Amended 1992 Ky. Acts ch. 438, sec. 6, effective July 14, 1992. -- Amended 1978 Ky. Acts ch. 63, sec. 1, effective June 17, 1978. -- Amended 1968 Ky. Acts ch. 152, sec. 43. -- Amended 1950 Ky. Acts ch. 123, sec. 29; and ch. 196, sec. 2. -- Amended 1948 Ky. Acts ch. 9, sec. 1; and ch. 84, sec. 1. -- Amended 1944 Ky. Acts ch. 164, sec. 1. -- Amended 1942 Ky. Acts ch. 205, sec. 2. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1762, 1763, 1763-1, 1763-2, 1779a-1, 4560. Legislative Research Commission Note. This section was also amended by Acts 1978, ch. 384, sec. 159 (the reviser's bill) but Acts 1978, ch. 63, sec. 1 prevails.

## **70.040 Deputy's acts and omissions; liability for**

The sheriff shall be liable for the acts or omissions of his deputies; except that, the office of sheriff, and not the individual holder thereof, shall be liable under this section. When a deputy sheriff omits to act or acts in such a way as to render his principal responsible, and the latter discharges such responsibility, the deputy shall be liable to the principal for all damages and costs which are caused by the deputy's act or omission.

History: Amended 1972 Ky. Acts ch. 363, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 4558, 4561.

## **70.045 Special deputies**

(1) The sheriff of a county with a population of ten thousand (10,000) or more may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each two thousand five hundred (2,500) residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order. The sheriff of a county with a population of less than ten thousand (10,000) may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each one thousand (1,000) residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order. The population of the county shall be determined by the most recent count or estimate by the Federal Bureau of Census.

(2) The sheriff in each county may appoint and have sworn in, and entered on the county clerk order book, as many special deputies as needed to assist him in the execution of his duties and office in preparation for or during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.

(3) The special deputy shall:

- (a) Be appointed and dismissed on the authority of the sheriff;
- (b) Not receive any monetary compensation for his time or services;
- (c) Serve at the request of the sheriff, unless personal conditions rule otherwise;
- (d) Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and
- (e) Be appointed regardless of race, color, creed, or position.

(4) The position of special deputy as created and defined in subsections (1), (2), and (3) is subject to the provisions of this section only.

Effective: July 13, 2004

History: Amended 2004 Ky. Acts ch. 140, sec. 2, effective July 13, 2004. -- Amended 1990 Ky. Acts ch. 134, sec. 2, effective July 13, 1990. -- Amended 1986 Ky. Acts ch. 158, sec. 1, effective July 15, 1986. -- Amended 1982 Ky. Acts ch. 109, sec. 1, effective March 25, 1982. -- Created 1976 Ky. Acts ch. 154, sec. 1.

**70.260 Option for county to create deputy sheriff merit board -- Expenses Membership -- Meetings -- Exclusion of certain deputy sheriffs who serve in policy-making positions.**

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of KRS 70.260 to 70.273, the primary legislative body of each county that does not have an urban-county, consolidated local government, or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive or the chief executive officer of an urban-county government or the chief executive officer of a consolidated local government pursuant to the provisions of KRS 67C.139 with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or the chief executive officer of an urban-county government or consolidated local government responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

(9) An ordinance, adopted under subsection (1) of this section by a county or consolidated local government, may exclude deputy sheriffs who serve in policy-making or confidential positions from coverage by the merit system. If the ordinance makes this exclusion, a deputy sheriff who is covered by the merit system and who accepts an

appointment in a policy-making or confidential position shall be deemed to have received a leave of absence from the merit system during the incumbency of that position. If he ceases to serve in a policy-making or confidential position but continues to serve as a deputy, he shall be restored to coverage at the same classification and rank that he held prior to his policy-making position under the merit system. A deputy who is not covered by the merit system at the time he is appointed to a policy-making or confidential position shall be deemed not to be part of the merit system and shall not be included in the merit system when he ceases to serve in that position.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 346, sec. 68, effective July 15, 2002. -- Amended 2000 Ky. Acts ch. 334, sec. 1, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 104, sec. 2, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 438, sec. 1, effective July 14, 1992.

## **70.261 Adoption of rules; certified copies; subjects addressed; issuance of additional rules; repeal or amendment of existing rules**

(1) When a county creates a deputy sheriff merit board, the board shall issue, and publish within forty-eight (48) hours after their adoption, rules that are not inconsistent with the provisions of KRS 70.260 to 70.273. The board shall provide a certified copy of the rules to:

- (a) The sheriff of the county who shall additionally post a copy in a conspicuous place in the main office and in any branch offices where deputies are regularly assigned to work from;
- (b) The county judge/executive of the county; and
- (c) The legislative body of the county.

(2) The board shall, at a minimum, adopt a body of rules that addresses the following subjects:

(a) For deputy sheriffs:

1. Qualifications for initial and continued employment, which shall at a minimum include: citizenship, age, physical, mental, and educational requirements;
2. Grounds for temporary appointments;
3. Advancement requirements. Deputy sheriffs shall be employed for at least three (3) full years before being eligible for the rank of sergeant;
4. Factors that shall, or may, result in demotion, the procedures for determining whether or not to demote a deputy, and the procedures for executing a demotion;
5. Factors that shall, or may, result in fining, probation, suspension, or removal; and
6. Administrative procedures for the deputies in the office such as transfer, layoff, and reinstatement.

(b) For the general administration of the board itself:

1. Organizational structure and conduct of meetings;
2. Procedure and conduct of public hearings as a result of the board's actions; and
3. Implementation and execution of written and oral examinations, and



- physical tests of fitness for appointment and promotion of deputies.
- (3) The subsequent issuance of additional rules, or of the repeal or amendment of existing rules shall follow the provisions indicated in subsection (1) of this section.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 244, sec. 10, effective July 15, 1998; and ch. 510, sec. 10, effective July 15, 1998. Legislative Research Commission Note (7/15/98). This section was created by 1998 Ky. Acts ch. 244, sec. 10, and ch. 510, sec. 10, which are identical and have been codified together.

**70.262 Collective bargaining for deputy sheriffs in merit system in county containing a consolidated local government or a city of first class; prohibition against strikes; employment contract with sheriff**

(1) In any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.

(2) In any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

Effective: July 15, 2002 History: Amended 2002 Ky. Acts ch. 346, sec. 69, effective July 15, 2002. -- Created 2000 Ky. Acts ch. 340, sec. 1, effective July 14, 2000.

**70.263 Training requirements for counties having deputy sheriff merit board; training for deputy sheriff providing security service to the courts**

(1) Each person serving as a covered deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall have successfully completed, within one (1) year following the effective date of that ordinance, a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

(2) Each person appointed as a covered deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall have successfully completed, within one (1) year following the appointment, a basic training course as established by KRS 15.440 at a school certified or recognized by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council

received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

(3) A deputy sheriff whose official duty is to provide security service to the courts, and who is compensated pursuant to KRS 64.092, shall, the provisions of subsections (1) and (2) of this section notwithstanding, satisfy the training requirements for employment if he completes law enforcement training which the Administrative Office of the Courts certifies to the sheriff as acceptable. If the training was not received prior to the effective date of the ordinance creating the deputy sheriff merit board, in the case of a deputy sheriff serving when the ordinance was passed, or prior to appointment in the case of a deputy sheriff appointed after the effective date of the ordinance, then it shall be received within one (1) year following the effective date of the ordinance or the date of appointment, as the case may be.

(4) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 112, sec. 3, effective July 15, 2016. -- Amended 2000 Ky. Acts ch. 480, sec. 12, effective July 14, 2000. -- Amended 1996 Ky. Acts ch. 104, sec. 3, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 402, sec. 1, effective July 15, 1994. -- Created 1992 Ky. Acts ch. 438, sec. 2, effective July 14, 1992.

## **70.265 Deputy sheriff merit boards to employ chief examiner; duties**

(1) Deputy sheriff merit boards shall employ a chief examiner who shall operate under the board's sole supervision.

(2) The board shall only employ a person for this position who is qualified and experienced in the field of testing.

(3) The examiner shall design, administer, and evaluate all written tests the board requires applicants for promotion to take for consideration for promotion. Each applicant for promotion shall be given an oral and written examination to determine the applicant's qualification for promotion.

(4) The examiner shall select a panel of three (3) persons to conduct the oral portion of the exam battery. The panel shall be selected from an agency other than the local sheriff's office, and the panel members shall be of at least the same rank to which the applicant aspires and of the same field.

(5) Unless the sheriff certifies that the applicant is not physically fit for promotion, physical fitness shall be presumed.

(6) (a) The composite score of the examination battery shall be calculated as follows:

1. Sixty-five percent (65%) for the written examination; and
2. Thirty-five percent (35%) for the oral examination.

(b) An applicant shall receive one (1) seniority point to be added to the composite score for each full year over three (3) full years of service. No applicant shall receive more than ten (10) seniority points. No applicant shall receive a seniority point for serving less than a full year.

(7) Testing and scoring methods shall not depart from, or be inconsistent with, those set out in this section.

(8) The chief examiner shall deliver the final scores of the applicants for promotion, in a manner that will ensure complete privacy and confidentiality of the applicants and

their scores, directly to the chair of the board. The chief examiner shall not release this information to anyone but the chair of the board.

(9) Notice of the date, time, and place of examinations shall be given no later than ninety (90) days before the examination date.

(10) Promotions shall be filled by the sheriff from a list of no more than three (3) of the candidates who obtained the highest combined scores on the written and oral examination, including any seniority points, and are physically fit to serve in the new capacity.

Effective: July 15, 1998

History: Created 1998 Ky. Acts ch. 244, sec. 11, effective July 15, 1998; and ch. 510, sec. 11, effective July 15, 1998 Legislative Research Commission Note (7/15/98). This section was created by 1998 Ky. Acts ch. 244, sec. 11, and ch. 510, sec. 11, which are identical and have been codified together.

### **70.267 Prohibited conduct -- Construction of section -- Probationary period.**

(1) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription, or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall be suspended, laid off, demoted, promoted, disciplined, threatened, or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service following an initial appointment or a promotional appointment. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

Effective: July 14, 2000

History: Amended 2000 Ky. Acts ch. 334, sec. 2, effective July 14, 2000. -- Created 1992 Ky. Acts ch. 438, sec. 3, effective July 14, 1992.

### **70.270 Disciplinary and removal procedures by sheriff -- Charges by citizen.**

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in KRS 70.267(5), the sheriff shall furnish a covered deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to KRS 70.267(5), every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be

subject to review by the board at the request of any deputy sheriff affected by the provisions of KRS 70.260 to 70.273.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of KRS 70.260 to 70.273 shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in KRS 70.260 to 70.273. The citizen may appeal the determination of the sheriff to the board.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 104, sec. 4, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 438, sec. 4, effective July 14, 1992.

### **70.273 Disciplinary and removal procedures by board -- Hearing -- Appeals.**

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of KRS 70.260 to 70.273 on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in KRS 70.267(5), the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of KRS 70.260 to 70.273 shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030, to any special deputy appointed by the sheriff pursuant to KRS 70.045, or to a deputy in a policy-making or confidential position excluded from coverage by the ordinance creating the deputy sheriff merit board.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 104, sec. 5, effective July 15, 1996. -- Created 1992 Ky. Acts ch. 438, sec. 5, effective July 14, 1992.

## **B. CONSTABLES**

### **70.320 Deputy constables in authorized counties.**

(1) As used in this section:

(a) "Authorized county" means a county containing either an eligible city or a consolidated local government; and

(b) "Eligible city" means a city on the registry maintained by the Department for Local Government under subsection (5) of this section.

(2) The appointment of deputy constables shall be allowed only in authorized counties. In authorized counties, each constable may appoint one (1) or more deputies with the consent of the county judge/executive or the mayor, in a consolidated local government, as the case may be. The constable and his or her surety are liable on his or her bond for all the acts and omissions of his or her deputies.

(3) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive or the mayor in a consolidated local government, as the case may be, entered after filing of a written direction by the constable.

(4) Each deputy constable in counties containing a consolidated local government or city of the first class shall be compensated for his or her services by salary fixed by the consolidated local government or fiscal court, and paid out of the levy of the consolidated local government or county.

(5) On or before January 1, 2015, the Department for Local Government shall create and maintain a registry of cities that, as of August 1, 2014, were classified as cities of the first or second classes. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 44, effective January 1, 2015. -- Amended 2002 Ky. Acts ch. 346, sec. 70, effective July 15, 2002. -- Amended 1978 Ky. Acts ch. 384, sec. 161, effective June 17, 1978. -- Amended 1968 Ky. Acts ch. 152, sec. 44. -- Amended 1960 Ky. Acts ch. 241, sec. 1. -- Amended 1954 Ky. Acts ch. 105, sec. 1. -- Amended 1952 Ky. Acts ch. 6, sec. 1. -- Amended 1946 Ky. Acts ch. 165, sec. 1. -- Amended 1942 Ky. Acts ch. 180, secs. 8 and 9. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 425, 1083a- 9.

## **C. COUNTY POLICE FORCE AND AUXILIARY**

### **70.540 County police force authorized; jurisdiction; appointment; qualifications; term; oath; officers**

The county judges/executive of the respective counties shall have and are hereby given the power, jurisdiction and authority to establish, appoint and maintain a county police force within their respective counties, all of the members and officers of which shall have and are hereby given jurisdiction coextensive with the whole county for which they are appointed. Such police force may consist of a chief and such member, rank and grade subordinate to the chief, and such clerical and skilled employees as the county judge/executive shall deem proper. All of the members and employees of the county police force shall be appointed by the county judge/executive and shall serve for a term

of one (1) year from the date of their respective appointments, unless sooner removed by the county judge/executive for neglect of duty or improper conduct. All members of the force shall be citizens of the United States not less than twenty-one (21) years of age and residents of the Commonwealth of Kentucky. None but discreet and sober persons shall be appointed to any position on said county police force. Each of the members of the said county police force shall take an oath, before the county judge/executive of their county, to faithfully, impartially and diligently perform the duties of their respective offices. Provided, however, that the chief officer of the county police force of any county may be designated, in the discretion of the county judge/executive of said county, as captain or any other appropriate title, and such county police force in any county may consist of one (1) or more commanding officers, as the county judge/executive of such county may deem proper or adequate.

Effective: July 15, 1982 History: Amended 1982 Ky. Acts ch. 88, sec. 1, effective July 15, 1982. -- Amended 1980 Ky. Acts ch. 188, sec. 50, effective July 15, 1980. -- Amended 1978 Ky. Acts ch. 384, sec. 164, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1942 Ky. Acts ch. 115, sec. 1.

## **70.542 Auxiliary county police force**

(1) Except in counties containing a consolidated local government or city of the first class, or counties containing an urban-county government, the fiscal court of any county in which there is an established county police force pursuant to KRS 70.540, may provide for the establishment or abolishment of an auxiliary county police force to perform duties within the county upon such terms and conditions as the fiscal court deems necessary and proper. The fiscal court shall prescribe the number of members comprising such auxiliary county police force, and prescribe rules and regulations that shall govern the powers and duties of the members of such auxiliary county police force, unless otherwise provided in subsection (2) of this section.

(2) A member of an auxiliary county police force shall:

- (a) Be appointed by the county judge/executive and serve at his or her pleasure;
- (b) Be answerable and under the direction of the county judge/executive, except when the county judge/executive delegates such authority to the chief officer of the county police force;
- (c) Not receive any compensation or benefits for his or her time or service, except that the fiscal court may provide for the payment of any reasonable and necessary expenses incurred by a member of the auxiliary county police force in the conduct of his or her official duties; and
- (d) Be appointed regardless of race, color, creed, or position.

(3) Before any person is appointed as a member of an auxiliary county police force, he or she shall give bond to the county judge/executive in an amount as prescribed by the fiscal court. The fiscal court may authorize the premium therefor to be paid out of the general funds of the county.

Effective: July 15, 2002

History: Amended 2002 Ky. Acts ch. 346, sec. 71, effective July 15, 2002. -- Amended 1984 Ky. Acts ch. 177, sec. 15, effective July 13, 1984. -- Created 1982 Ky. Acts ch. 383, sec. 2, effective July 15, 1982.

# **APPENDIX VII**

## **CHAPTER 78**

### **COUNTY EMPLOYEES' CIVIL SERVICE AND RETIREMENT**

#### **78.400 Definitions for KRS 78.400 to 78.480 and KRS 78.990.**

As used in KRS 78.400 to 78.480 and KRS 78.990, unless the context otherwise requires the following words and terms shall have the following meaning:

- (1) "Board" means the county police force merit board or boards hereinafter created.
- (2) "Chief" means the chiefs of the county police forces affected by KRS 78.400 to 78.480 and KRS 78.990.
- (3) "Assistant chief" means the next in command to the chiefs of the county police forces affected by KRS 78.400 to 78.480 and KRS 78.990.
- (4) "Secretary" means the executive secretary and examiner employed by the county police force merit board or boards hereinafter created.
- (5) "Officer" means any member of the county police forces affected by KRS 78.400 to 78.480 and KRS 78.990 including chiefs and assistant chiefs and all commissioned or noncommissioned patrolmen, corporals, sergeants, lieutenants and captains.
- (6) "Employee" means all other employees of the county police forces affected by KRS 78.400 to 78.480 and KRS 78.990.

History: Amended 1972 Ky. Acts ch. 297, sec. 1. -- Amended 1962 Ky. Acts ch. 280, sec. 1. -- Created 1952 Ky. Acts ch. 141, sec. 1.

#### **78.405 Powers of counties to create police force merit system -- Appropriations.**

(1) Any county of the Commonwealth of Kentucky may, by order of its fiscal court, duly made and entered of record, create a county police force merit system, and for that purpose, establish a county police force merit board, whose duties it shall be to classify and examine applicants seeking employment as officers or employees of the police force of the said county, and in addition thereto to promulgate rules and regulations not inconsistent with KRS 78.400 to 78.480 and 78.990 governing the classification, qualification, examination, appointment, probation, promotion, demotion, fine, suspension and other disciplinary action within the said county police force of all personnel of the county police force or forces affected and covered by KRS 78.400 to 78.460 and 78.990, and in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected by KRS 78.400 to 78.460 and 78.990.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

Effective: July 15, 1988

### **78.410 County police force merit boards.**

(1) The county judge/executive, subject to the approval of the fiscal court of the county, shall appoint four (4) persons, who shall constitute the county police force merit board of such county, who shall serve without compensation, and the county judge/executive shall be a member ex officio of the said board, but shall only vote in case of a tie vote on any matter before the board for determination. Each board appointee shall be at least thirty (30) years of age, a resident of the county affected, and not related by either blood or marriage to either the county judge/executive or any member of the fiscal court of the said county. The first members of any said board shall be appointed within the thirty (30) day period following the effective date of an order duly made and entered by a fiscal court creating a county police force merit system and merit board, and one (1) member of the board shall be appointed for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years. Thereafter, all appointments shall be for four (4) years except that appointments to fill vacancies within the respective terms shall be made only for the unexpired period of the respective terms. Any board member may be removed by resolution of the fiscal court of the county for neglect, incapacity, misfeasance or malfeasance on the part of said board members. No appointed board member shall hold any other public office elective or appointive during his term as a member of the board, and shall not receive any money, gift or consideration of any type from any person directly or indirectly for or on account of any recommendation, proposal or suggestion bearing upon the business of the board or the county police force. Not more than two (2) members shall be adherents of the same political party.

(2) Each appointee, before entering upon the discharge of his duties, shall qualify by subscribing, taking and filing an oath of office as required by law.

(3) The members of the county police department shall elect for a two (2) year term two (2) patrolmen of the county police department with a minimum of five (5) years' service or more who shall serve as members of the county police force merit board for the purpose of deciding discipline cases only and who may vote in such cases. These members shall be elected during the month of July, 1978. In case of a vacancy, a new election shall be held within sixty (60) days of the date when the vacancy occurs and the person elected shall fill the remainder of the unexpired term.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 129, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1970 Ky. Acts ch. 198, sec. 1. -- Created 1952 Ky. Acts ch. 141, sec. 2(2) and (6), effective March 4, 1952.

### **78.420 Chairman, vice chairman -- Administrative regulations -- Voting, quorum.**

(1) Upon appointment and qualification of the members of the board, they shall meet within the thirty (30) days following the creation of the board and elect their chairman and vice chairman and adopt such rules and regulations and bylaws not inconsistent with KRS 78.400 to 78.480 and 78.990 for the proper conduct of their offices. In all matters requiring a vote, a majority of the board members present and voting shall



determine any question, provided that at least three (3) board members be present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board must be present to constitute a quorum, one (1) of which must be a police officer as defined in subsection (3) of KRS 78.410.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 129, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1970 Ky. Acts ch. 198, sec. 1. -- Created 1952 Ky. Acts ch. 141, sec. 2(2) and (6), effective March 4, 1952.

#### **78.425 Personnel included in merit system.**

(1) All police officers of whatever rank and title, and all employees, except civilian employees covered by a collective bargaining agreement, of every county police force affected by KRS 78.400 to 78.460 and 78.990 are covered by the provisions hereof, except probationary officers and employees. All covered officers and employees of every county police force on active duty or service as of the effective date of an order of the fiscal court of the county creating a county police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for their respective county police force without examination or further qualification, except and unless the chief of police of any county police force shall, within sixty (60) days after the establishment of the board, certify to the board that any officer or employee is physically unfit to continue his or her duties.

(2) If a merit system is established which covers a county fire department, the provisions of subsection (1) shall apply to the county fire department as they apply to the county police force.

(3) All personnel covered by the provisions (a) of KRS 78.400 to 78.460, or (b) KRS 67.323, 67.325 and this section, or both, except probationary officers and employees, shall be deemed to be permanent employees subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

(4) Probationary officers and employees shall not be included in the merit system until they satisfactorily complete their initial probationary periods established by the governing merit board. Officers and employees serving promotional probationary periods, however, shall not be deemed excluded from the merit system during the promotional probationary periods.

Effective: June 17, 1978

History: Amended 1978 Ky. Acts ch. 129, sec. 1, effective June 17, 1978. -- Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1970 Ky. Acts ch. 198, sec. 1. -- Created 1952 Ky. Acts ch. 141, sec. 2(2) and (6), effective March 4, 1952.

#### **78.428 Police officers excluded from classified service.**

(1) The provisions of KRS 78.400, 78.405, and 78.425 shall not apply to the chief of police, assistant chiefs, and any officers above the rank of captain of county police

forces in counties having a population of 600,000 or more. Said officers shall be appointed by the county judge/executive and shall not be considered covered officers, except as provided in subsection (2) of this section.

(2) Any employee covered by the provisions of KRS 78.400 to 78.480 who shall accept an appointment and qualify as chief of police or assistant chief of police shall be deemed to have received a leave of absence from the classified service for and during the incumbency of any of said respective positions. Should any such chief or assistant chief of police cease to serve as such there shall be restored to him the same classification and rank which he held prior to said appointment. Any person not covered by the provisions of KRS 78.400 to 78.480 when appointed to the position of chief of police or assistant chief of police shall not be deemed to be part of the classified service and shall not be returned to any classification or rank in the classified service when he ceases to serve in such capacity.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1972 Ky. Acts ch. 259, sec. 1.

### **78.435 Political activities forbidden.**

(1) No officer or employee covered by the provisions of KRS 78.400 to 78.460 shall directly or indirectly solicit or receive or be in any manner whatever concerned in receiving, soliciting or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No person shall use or promise to use his personal influence or official authority to secure any appointment or promotion to any position of employment covered by the provisions of KRS 78.400 to 78.460, as a reward or return for personal or partisan political service. No candidate applying for original appointment or promotion to any position of employment covered by KRS 78.400 to 78.460 shall sign or execute or promise to sign or execute a resignation dated or undated in advance of such appointment or promotion. No officer or employee covered by the provisions of KRS 78.400 to 78.460 shall be suspended, laid off, demoted, promoted, fined, disciplined or threatened, or in any way changed in rank, duty or compensation for withholding or neglecting to pay or make any contribution of any sort, or character, either in money, goods or services or anything of value for any political purpose whatsoever.

(3) No examination question in any examination held by the board shall relate to any political or religious opinion, belief, affiliation or service and no appointment, promotion, demotion, suspension, fine or removal shall be brought about, effected, affected or influenced by such opinions, beliefs, affiliations or services.

(4) No officer or employee covered by KRS 78.400 to 78.460 shall foster, promote, or be concerned with any actions involving political or religious controversies or prejudices while in uniform.

(5) Nothing contained in KRS 78.400 to 78.460 shall be so construed as to abridge the rights of any officer or employee with respect to his or her personal opinions or beliefs or right to vote.

Effective: January 2, 1978

History: Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Created 1972 Ky. Acts ch. 259, sec. 1.

**78.440 Board to promulgate rules governing certain subjects -- Publications -- Qualifications -- Requirements for promotion.**

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, layoff, reinstatement, suspension, fine, and removal of the officers and employees covered by KRS 78.400 to 78.460. No rule or regulation made, promulgated, or amended by any county police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments by supplying a certified copy to the county judge/executive, the fiscal court, and the chief, and by posting a copy conspicuously in the office or place where the headquarters of the county police is maintained. The rules and amendments shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

- (a)
  - 1. Physical, mental, educational, citizenship, and age requirements for new employees and officers.
  - 2. Physical, mental, educational, citizenship, and age requirements for new employees and officers and seniority requirements for promotion from lower to higher rank or classification.
  - 3. A grade A patrolman shall have three (3) years of service as a grade A patrolman before he may be eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.
- (b)
  - 1. Open competitive written, oral, and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.
  - 2. Public notices of examinations provided in subparagraph 1 of paragraph (b) and subparagraph 2 of paragraph (a) of this subsection.
  - (c) Temporary appointments in case of emergency.
  - (d) Organization and meetings of the board.
  - (e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employees prior to the first day of the month following the officer or employee's fifty-eighth birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written tests as required by the board. The chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of three (3) members to conduct an oral examination of the applicants for promotion. The panel shall consist of three (3) persons of a supervisory capacity from an outside agency or agencies in the same field and of the same rank to which the applicant is aspiring. The chief examiner shall compile the

grades of all applicants in strict compliance with procedures and percentages as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board, but no testing method or the grading shall depart from or be inconsistent with the procedures and percentages set out below which shall be strictly followed in determining an applicant's eligibility for promotion.

(5) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: sixty percent (60%) for written examination; thirty percent (30%) for oral examination; one percent (1%) for each year in seniority in grade, not to exceed ten percent (10%). Seniority points shall be awarded for each year of service after five (5) full years of service. The results of the written and oral examinations shall be added to the seniority points available to each applicant in determining the applicant's final evaluated rating.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 311, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 319, sec. 4, effective July 15, 1988. -- Amended 1980 Ky. Acts ch. 25, sec. 1, effective July 15, 1980; and ch. 101, sec. 1, effective July 15, 1980. -- Amended 1970 Ky. Acts ch. 198, sec. 4. -- Created 1952 Ky. Acts ch. 141, sec. 4(1), effective March 4, 1952.

#### **78.445 Disciplinary action by chief.**

(1) Any officer or employee may be removed, suspended, laid off, reduced in grade, or fined by the chief for any cause which will promote the efficiency of the service, but before any such action is taken by the chief against any officer or employee, the chief shall furnish the officer or employee concerned with a written statement of the reasons why the described action is taken. The officer or employee may be reduced, removed, suspended, laid off or fined from the date when such written statement of reasons is served upon him. Each officer or employee removed, suspended, laid off, reduced in grade, or fined, shall be allowed a period of ten (10) days within which he may file written answer to the charges and reasons which caused his suspension, removal, reduction or fine, which shall be made a part of the official records of the police department. No trial or examination of witnesses shall be required in any such case except in the discretion of the chief. The chief shall likewise furnish a copy of the written charges and reasons for his action to the board.

(2) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any police officer hereunder shall present the charges to the chief of police, who shall investigate said charges. The chief of police shall determine what action, if any, shall be taken against the officer, subject to the limitations set out in this chapter. The citizen may appeal the determination of the chief of police to the board.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 311, sec. 1, effective July 13, 1990. -- Amended 1988 Ky. Acts ch. 319, sec. 4, effective July 15, 1988. -- Amended 1980 Ky. Acts ch. 25, sec. 1, effective July 15, 1980; and ch. 101, sec. 1, effective July 15, 1980. -- Amended 1970 Ky. Acts ch. 198, sec. 4. -- Created 1952 Ky. Acts ch. 141, sec. 4(1), effective March 4, 1952.

#### **78.450 Disciplinary action by board.**

(1) The board shall also have the right to remove, reduce, suspend, lay off, fine or discipline any officer or employee covered by the provisions hereof on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the officer or employee accused shall have the right to be present and represented by counsel and confronted by all of the witnesses preferring the charges against him. Every such employee or officer shall be given the right within ten (10) days after charges are initiated by the board or a private citizen and before the public hearing prescribed herein, to file written answer to the charges preferred against him.

(2) After full public hearing by the board, the board may retire in executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. In no case shall the board in executive session receive any further evidence or communication from any source whatsoever prior to reaching its determination and conclusion.

(3) Before the board shall remove, reduce, suspend, lay off, fine or discipline any officer or employee covered by the provisions hereof, the charges against said officer must be presented to the officer in writing and shall be specific as to the nature of the charge or charges, giving specific, detailed information so as to allow said officer to be able to properly defend himself.

History: Amended 1970 Ky. Acts ch. 198, sec. 6. -- Created 1952 Ky. Acts ch. 141, sec. 4(2), effective March 4, 1952.

#### **78.455 Action of chief or board final -- Exceptions -- Appeals to courts.**

In all cases provided for in KRS 78.445 and 78.450, the action of the chief or of the board shall be final except in the following cases:

(1) Every action in the nature of a dismissal, suspension, reduction, or fine made by the chief, shall be subject to review by the board at the request of any officer or employee affected by KRS 78.400 to 78.460, and the board shall give notice and hold a public hearing. After the public hearing, the board shall retire in executive session to discuss the evidence introduced at the hearing and make its determination and conclusion. While in executive session, the board shall not receive any further evidence or communication from any source prior to reaching its determination and conclusion. The board, while in executive session, may request and receive legal advice from board counsel on specific legal issues which may arise during deliberations. If a majority of the members of the board are of the opinion that the action of the chief is unjustified or unsupported by proper evidence, the order of the chief may be set aside and revoked by the board and the board may impose the penalty or punishment it may deem necessary and appropriate, if any.

(2)(a) Every action in the nature of a dismissal, suspension, reduction, or fine made by the board shall be final, except that any person aggrieved thereby may, within twenty (20) days after the rendition of the action, appeal to the Circuit Court of the county in

which the board meets. The board shall be named respondent as the county police force merit board, and service shall be had on the chairman thereof. The appeal taken to the Circuit Court shall be docketed by the clerk as a civil action and shall be tried anew, as if no action had been rendered by the board.

(b) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in civil action.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 312, sec. 1, effective July 13, 1990. -- Amended 1978 Ky. Acts ch. 126, sec. 2, effective June 17, 1978. -- Amended 1970 Ky. Acts ch. 198, sec. 7. -- Amended 1966 Ky. Acts ch. 25, sec. 1. -- Created 1952 Ky. Acts ch. 141, sec. 4(2), effective March 4, 1952

#### **78.460 Board hearings to conform to due process of law -- Board may issue subpoenas, compel attendance of witnesses, and compel production of documents.**

Procedural due process shall be afforded to all police officers by the board. The board shall inform any officer, promptly and in writing, of any charges brought against the officer by the board. The officer shall be given a prompt hearing by the board, have an opportunity to confront his accusers, and have the privilege of presenting the board with evidence. The board shall have the power to issue subpoenas attested in the name of its chairman, to compel the attendance of witnesses, to compel the production of documents and other documentary evidence, and so far as practicable, conduct the hearing within the Kentucky Rules of Civil Procedure. Upon a showing of proper need, the board shall issue subpoenas to compel the attendance of witnesses, or to compel the production of documents and other documentary evidence for the benefit of the officer or the chief at the request of the officer or the chief. Any officer who is not given a hearing within sixty (60) days of any charge placed shall be reinstated in full.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 399, sec. 1, effective July 15, 1994. -- Amended 1970 Ky. Acts ch. 198, sec. 8. -- Created 1952 Ky. Acts ch. 141, sec. 4(3), effective March 4, 1952.

#### **78.470 Collective bargaining authorized -- Strikes prohibited.**

In any county in the Commonwealth of Kentucky, which has a population of 300,000 or more and, which has adopted the merit system, the county employees in the classified service as police may organize, form, join or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through representatives of their own free choice. Such employees shall also have the right to refrain from any or all such activities. Strikes by said members of any such collective bargaining unit shall be prohibited at any time.

History: Created 1972 Ky. Acts ch. 297, sec. 2.



# **APPENDIX IX**

## **CHAPTER 90**

### **CITY CIVIL SERVICE**

#### **90.220 Political discrimination and political activity prohibited --Dismissal for violation.**

(1) Persons holding positions in the classified service shall not be discriminated against in any way because of their political or religious opinions or affiliations or because of their exercise of their right to vote as they please.

(2) No person in the classified service, and neither the personnel director nor any member of the board, nor the chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall, directly or indirectly, give, solicit, receive, or remit, any assessment, subscription, or contribution, to or for any political party or any candidate for public office, or in any manner be concerned therewith; nor shall any such person be a member of any campaign committee or governing committee of any political organization nor an officer in either; nor shall any such person, while on duty or using public resources, propose or oppose the placement of a question or advocate for the adoption or defeat of a question to be voted upon by the voters of the government under which the person is employed; nor shall any such person be an election officer or work at the polls on election day, or participate in the purgation or registration of voters, provided, however, nothing herein shall prevent any such person from freely expressing his or her views as a citizen or from casting his or her vote in any election.

(3) Any such person who shall violate this section shall be summarily dismissed from the service by the appointing authority (or if a member of the board, by the mayor), and may not be employed in any service of the city, classified or unclassified, for a period of one (1) year next thereafter; provided however, that should the appointing authority fail or refuse to so dismiss, the board (except when a member thereof is charged with violation of this section) shall conduct a hearing, which the accused person may attend with counsel; if the board find the accused guilty of violation of this section, the board shall dismiss such violator, with the consequent disqualification. Such action of the board is final.

Effective: July 15, 2008

History: Amended 2008 Ky. Acts ch. 135, sec. 1, effective July 15, 2008.--Amended 1978 Ky. Acts ch. 164, sec. 17, effective June 17, 1978.--Created 1942 Ky. Acts ch. 16, sec. 8.

#### **90.300 Definitions for KRS 90.310 to 90.410 --Application.**

(1) In KRS 90.310 to 90.410, unless the context requires otherwise:

(a) "Administrative or directorial position" means the head of a department of municipal government;



(b) "Appointing authority" means the officer, commission, board or body having the power of appointment or removal in any office, department, commission, board or institution;

(c) "Civil service" means the offices and positions of trust or employment in the service of the city not specifically excluded by KRS 90.310 to 90.410 or by ordinance of the city as provided in KRS 90.310;

(d) "Commission" means the board of civil service commissioners as established under KRS 90.310;

(e) "Dismissal" means the discharge of an employee;

(f) "Employee" means any person employed in the conduct of municipal affairs, but the term shall not include the mayor, city manager, city administrative officer, or an administrative or directorial position. The term "employee" shall not include the offices of the board of health, members of the planning and zoning commission, the board of trustees of the public library, members of the housing authority, municipal hospital commission or the trustees, members or corresponding officers of similar boards or commissions, persons employed on temporary and special projects or to persons whose regular employments with the city are seasonal and are less than nine (9) months in any one (1) year, persons in a class of employees designated by ordinance to be non-civil-service positions, and the city clerk or city assessor; and

(g) "Pension fund" means the moneys derived from the employees and the levy of a special tax, either or both, or any other sum derived from any other source, to be used for the retirement of employees after the prescribed years of service and for the benefit of disabled employees, and surviving spouses and dependent children in the case of death of an employee within the scope of his employment according to the terms of KRS 90.310 to 90.410 and the ordinance of the city.

(2) The provisions of KRS 90.310 to 90.410 are independent of and do not affect the laws governing the police and fire departments, nor their pension funds, as provided in KRS Chapter 95.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 78, effective January 1, 2015. --Amended 2000 Ky. Acts ch. 178, sec. 1, effective July 14, 2000. --Amended 1982 Ky. Acts ch. 307, sec. 1, effective July 15, 1982. --Amended 1974 Ky. Acts ch. 386, sec. 12. --Amended 1950 Ky. Acts ch. 180, sec. 1. --Amended 1946 Ky. Acts ch. 50, sec. 1. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3235h-1, 3235h-11, 3235h-11a, 3480e-1, 3480e-11.

### **90.310 Adoption of civil service ordinance --Civil service commission.**

(1) Except as provided in subsection (5) of this section, any city of the home rule class may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission which shall hold examinations as to the qualifications of applicants for municipal employment within the several departments of the city that are designated by ordinance. In all cities of the home rule class, the city may, by ordinance, classify employees and designate the class of employees it desires to include.

(2) The mayor, subject to the approval of the city legislative body, shall appoint at least three (3) but no more than five (5) persons who shall constitute the civil service commission of that city. Each appointee shall be at least thirty (30) years of age and not related by either blood or marriage to the mayor or any member of the city legislative body. The appointees shall originally be appointed one (1) for a term of three (3) years,

one (1) for a term of two (2) years and all remaining appointments shall be for a term of one (1) year, and the successors to these appointees shall be appointed in like manner, each for a period of three (3) years and until his successor is appointed and qualified. A vacancy shall be filled for the unexpired term in the same manner as original appointments. At the time of any appointment, if the mayor elects to appoint only three (3) commissioners, not more than two (2) commissioners shall be adherents of the same political party. If the mayor elects to appoint more than three (3) commissioners not more than three (3) commissioners shall be adherents of the same political party. The appointee originally appointed for the term of three (3) years shall be secretary of the commission. Each appointee shall qualify by taking an oath of office as required by law. The salaries of the members of the commission may be fixed by the city legislative body.

(3) If the appointing authority of any city fails to appoint a civil service commission within thirty (30) days after he has the power to so appoint or after a vacancy exists, the mayor pro tem shall make the appointment and the appointee shall hold office until the expiration of the term and until his successor is appointed and qualified.

(4) The civil service commission shall make and enforce rules, not inconsistent with the provisions of KRS 90.310 to 90.410 or the ordinances of the city, for examinations and registrations therefor.

(5) No city shall adopt an ordinance pursuant to this section to create a civil service commission during the months of November or December in any even numbered year.

(6) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 79, effective January 1, 2015; and ch. 121, sec. 1, effective July 15, 2014. --Amended 2000 Ky. Acts ch. 178, sec. 2, effective July 14, 2000. --Amended 1982 Ky. Acts ch. 281, sec. 1, effective July 15, 1982. --Amended 1968 Ky. Acts ch. 152, sec. 63. --Amended 1946 Ky. Acts ch. 50, sec. 2. --Repealed in part 1944 Ky. Acts ch. 107, sec. 1. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3235h-2, 3480e-2.

Legislative Research Commission Note (1/1/2015). This statute was amended by 2014 Ky. Acts chs. 92 and 121, which do not appear to be in conflict.

### **90.360 Dismissal, suspension, or reduction --Exclusions from classified service.**

(1) No employee in the classified service shall be dismissed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, violation of law involving moral turpitude, or violation of any rule adopted by the city legislative body or civil service commission.

(2) Any person may prefer charges in writing against any employee by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he or she believes guilty of conduct justifying his or her removal. Upon the filing of charges, the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the date, place,

and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the date of the service of charges upon the accused employee. The day on which the charges are served on the accused employee shall count as one (1) of the days of notice. The person accused may in writing waive the service of charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.

(3) Upon the hearing, the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.

(4) The civil service commission shall have the power to summon and compel attendance of witnesses at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members

of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully

be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he or she may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employee without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only upon payment of fifty cents (\$0.50) to the city clerk by the employee. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in a book for that purpose and the written charge shall be attached to the book containing the body's decision.

(5) In cases where the head of the department or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.

(6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of time not to exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended, or dismissed except as provided in this section.

(7) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service:

1. Chief of police;
2. Assistant chief of police;
3. Chief of firefighters; and
4. Assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him

or her the same classification and rank which he or she held prior to his or her appointment.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 83, effective January 1, 2015. --Amended 2000 Ky. Acts ch. 359, sec. 1, effective July 14, 2000. --Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 102, effective January 2, 1978. --Amended 1956 Ky. Acts ch. 46, sec. 11. --Amended 1946 Ky. Acts ch. 50, sec. 6. --Amended 1944 Ky. Acts ch. 107, sec. 2. Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3235h-7, 3480e-7.

### **90.390 Prohibition of political activity.**

(1) No person shall be appointed to any position because of political partisan service rendered by him or his family, or because of political sentiment or affiliation, nor shall any person be dismissed or reduced in grade because of any political opinion.

(2) No employee shall coerce or persuade another, or in any way actively participate in any election, or cause others to do so.

Effective: January 1, 2015

History :Amended 2014 Ky. Acts ch. 92, sec. 84, effective January 1, 2015. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3235h-6, 3480e-6



# **APPENDIX X**

## **CHAPTER 95**

### **CITY POLICE AND FIRE DEPARTMENTS**

#### **95.442 Authorization for civil service commission in city with population of 8,000 or more -- Rights of employee accepting management position.**

Any city with a population equal to or greater than eight thousand (8,000) based upon the most recent federal decennial census, may elect to operate under KRS 90.310 to 90.410, and, by ordinance, create a civil service commission. Any classified employee in the police or fire department who accepts an appointment and qualifies as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of those respective positions. If an individual should cease to serve in any of those positions, there shall be restored to him or her the same classification and rank which he or she held prior to his or her appointment.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 110, effective January 1, 2015. -- Created 2000 Ky. Acts ch. 359, sec. 2, effective July 14, 2000.

#### **95.445 Auxiliary police in city of home rule class or urban-county government -- Exception.**

(1) Except as provided in subsection (2) of this section, the legislative body of a city of the home rule class, or urban county government, may by ordinance provide for the establishment or abolishment of an auxiliary police force to perform special duties within the city on terms it deems proper. The ordinance shall prescribe the number of officers and men of such force and the manner of their appointment, and rules and regulations governing the powers and duties of members of such force.

(2) No city containing a population of less than three thousand (3,000) based upon the most recent federal decennial census that is located within a county that contains a consolidated local government shall establish or otherwise provide for an auxiliary police force.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 111, effective January 1, 2015. --Amended 1974 Ky. Acts ch. 248, sec. 6. --Amended 1970 Ky. Acts ch. 162, sec. 1. --Amended 1968 Ky. Acts ch. 135, sec. 1. --Created 1960 Ky. Acts ch. 210, sec.

#### **95.450 Discipline of members of police and fire departments in urban county governments and cities on DLG's registry of cities that belonged to the second and third classes on January 1, 2014.**

(1) The provisions of this section shall only apply to members of police and fire departments in urban county governments and those cities that are included in the

Department for Local Government registry created pursuant to subsection (9) of this section.

(2) Except as provided in subsection (6) of this section no member of the police or fire department in cities listed on the registry pursuant to subsection (9) of this section or an urban county government shall be reprimanded, dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of the rules adopted by the legislative body, and only after charges are preferred and a hearing conducted as provided in this section.

(3) Any person may prefer charges against a member of the police or fire department by filing them with the clerk of the legislative body who shall immediately communicate the same to the legislative body. The mayor shall, whenever probable cause appears, prefer charges against any member whom he believes guilty of conduct justifying his dismissal or punishment. The charges shall be written and shall set out clearly the charges made. The person preferring the charges may withdraw them at any time prior to the conclusion of the hearing. The charges may thereupon be dismissed.

(4) Upon the hearing all charges shall be considered traversed and put in issue, and the trial shall be confined to matters related to the issues presented. Within three (3) days after the charges have been filed with the legislative body, that body shall proceed to hear the charges. At least two (2) days before the hearing the member accused shall be served with a copy of the charges and a statement of the day, place and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within three (3) days after the charges are filed with the clerk.

(5) The legislative body may summon and compel attendance of witnesses at hearings by subpoena issued by the clerk of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The member accused may have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. The action and decision of the body on the charges shall be reduced to writing and entered in a book kept for that purpose, and the written charges filed in the matter shall be attached to the book containing the decision.

(6) When the appointing authority or the head of the department has probable cause to believe a member of the police or fire department has been guilty of conduct justifying dismissal or punishment, he or it may suspend the member from duty or from both pay and duty, pending trial, and the member shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member accused.

(7) The legislative body shall fix the punishment of a member of the police or fire department found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal from the service.

(8) A member of a police or fire department found guilty pursuant to the provisions of this section shall have the right to appeal to the Circuit Court under KRS 95.460.

(9) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall be required to comply with the provisions of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second or third class as of January 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 112, effective January 1, 2015. --Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 115, effective January 2, 1978. --Amended 1976 Ky. Acts ch. 165, sec. 1. --Amended 1974 Ky. Acts ch. 248, sec. 7. --Amended 1956 Ky. Acts ch. 246, sec. 14, effective May 18, 1956. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3138-1, 3138-4, 3235dd-35, 3351a-2

### **95.460 Appeals to Circuit Court and Court of Appeals.**

(1) Any member of the police or fire department found guilty by the legislative body of any charge, as provided by KRS 95.450, may appeal to the Circuit Court of the county in which the city or urban-county government is located, but the enforcement of the judgment of the body shall not be suspended pending appeal. The notice of the appeal shall be filed not later than thirty (30) days after the date the legislative body makes its determination on the charge.

(2) Upon request of the accused, the clerk of the legislative body shall file a certified copy of the charges and the judgment of that body in the Circuit Court. Upon the transcript being filed, the case shall be docketed in the Circuit Court and tried as an original action.

(3) If the clerk fails to certify the transcript to the Circuit Court within seven (7) days after the request is made, the party aggrieved may file an affidavit in the Circuit Court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the legislative body, together with a statement that demand for transcript was made upon the clerk more than five (5) days before the filing of the affidavit. Upon the filing of the affidavit in the Circuit Court, the case shall be docketed, and the Circuit Court may compel the filing of the transcript by the clerk by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.

(4) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 113, effective January 1, 2015.

--Amended 1982 Ky. Acts ch. 38, sec. 1, effective July 15, 1982. --Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 116, effective January 2, 1978. --Amended 1976 Ky. Acts ch. 165, sec. 2. --Amended 1974 Ky. Acts ch. 248, sec. 8. --Amended 1970 Ky. Acts ch. 211, sec. 1. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3138-1, 3138-5, 3235dd-35, 3351

### **95.470 Prohibition of political activity for police and fire departments in cities of home rule class and urban county governments.**

(1) No person shall be appointed a member of the police or fire department in cities of the home rule class or urban county governments on account of any political service, contribution, sentiment or affiliation. No member shall be dismissed, suspended or reduced in grade or pay for any political opinion.



(2) The appointment and continuance in office of members of the police or fire department shall depend solely upon their ability and willingness to enforce the law and comply with the rules of the department, and shall not be a reward for political activity or contribution to campaign funds.

(3) No member of either department shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No member of either department shall be active in politics or work for the election of candidates while on duty.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 114, effective January 1, 2015. --Amended 1978 Ky. Acts ch. 169, sec. 1, effective June 17, 1978. --Amended 1974 Ky. Acts ch. 248, sec. 9. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3138 -3, 3235dd -35, 3351a -2.

### **95.480 Duties and liabilities of chief of police and policemen --Fees--Cities of second class or urban county government.**

(1) The chief of police in cities or a policeman acting under his authority shall, if required by the city, attend all sessions of the legislative body, execute their orders, and preserve order at their sessions.

(2) The chief of police may receive the same fees, for the use of the city or urban county government, that sheriffs are entitled to receive for like services, and have the same power to collect them.

(3) The chief of police, policemen deputized by him, and others to whom the process of a court is directed and comes for execution shall execute and return the process within the time prescribed by law for sheriffs to execute and return similar process, and on their failure they and their sureties shall be liable to the same penalties as sheriffs. They shall be subject to similar penalties for not paying over moneys collected on execution, making illegal charges, false returns and like illegal acts.

(4) The District Court may hear and determine motions against them and their sureties for failure to pay over moneys collected, as the Circuit Court has jurisdiction to hear and determine motions against defaulting sheriffs, or may proceed by fines and imprisonment to enforce the execution and return of process.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 115, effective January 1, 2015. --Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 117, effective January 2, 1978. --Amended 1974 Ky. Acts ch. 248, sec. 10. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3161, 3168

### **95.490 Oath and bond of members of police force --Cities of home rule class or urban county governments.**

(1) Each member of the police force in cities of the home rule class or in an urban county government, before entering upon the discharge of his duties, shall take an oath to faithfully discharge the duties of his or her office. The oath shall be subscribed by the person taking it, and filed in the office of the city clerk, or in urban county governments, the office most closely resembling such office.

(2) The chief of police and each other member of the police force shall give such bond to the city or urban county government, and with such surety as may be required by ordinance, conditioned that they will faithfully perform the duties of their office and pay over to the persons entitled thereto all moneys that may come into their hands. A lien shall exist on the lands of the chief of police or policemen deputized by him, and their sureties, from the time of executing bond, for all sums of money that come into their hands.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 22, sec. 3, effective July 15, 2016. --Amended 2014 Ky. Acts ch. 92, sec. 116, effective January 1, 2015. --Amended 1974 Ky. Acts ch. 248, sec. 11. --Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 3141, 3168

**95.495 Hours of work and annual leave for members of police department in Urban county governments and cities on DLG's registry of cities that belonged to the second and third classes on January 1, 2014.**

(1) In cities listed on the registry pursuant to subsection (3) of this section or urban county governments, except those in which, by ordinance, the patrolmen are employed or paid by the day, the members of the police department shall not be required to work more than eight (8) hours per day, for five (5) days each week or ten (10) hours per day, for four (4) days each week, except in the event of an emergency. Each member of the police department shall have an annual leave of fifteen (15) working days with full pay. Nothing in this section shall prohibit a member of the police department from voluntarily agreeing to work a different work schedule provided that the officer is paid overtime for any work performed in excess of forty (40) hours per week.

(2) The salary of the members of the police department shall not be reduced by reason of the enactment of this section.

(3) On or before January 1, 2015, the Department for Local Government shall create a registry of cities that shall comply with the provisions of this section. The Department for Local Government shall include each of those cities on the registry that were classified as cities of the second or third class on August 1, 2014. The Department for Local Government shall make the information included on the registry available to the public by publishing it on its Web site.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 117, effective January 1, 2015. --Amended 1996 Ky. Acts ch. 93, sec. 1, effective July 15, 1996. --Amended 2014 Ky. Acts ch. 92, sec. 117, effective January 1, 2015. -- Amended 2008 Ky. Acts ch. 135, sec. 3, effective July 15, 2008.. -- Amended 1974 Ky. Acts ch. 248, sec. 12. --Amended 1958 Ky. Acts ch. 22, sec. 1 --Created 1946 Ky. Acts ch. 1, secs. 1 and 2

**95.761 Adoption of civil service, employees retirement system, and police and firefighters' pension plan in cities with population of 1,000 to 7,999 -- Exemptions from classified service -- Limitations on creation of new fund after August 1, 1988.**

(1) Any city with a population equal to or greater than one thousand (1,000) but less than eight thousand (8,000) based upon the most recent federal decennial census which has now, or in which there may be hereafter established a regular police or fire department in the future, may by ordinance create a civil service commission, whose duties shall be to hold examinations as to the qualifications of applicants for

employment within the police or fire departments. If a city elects to establish a civil service system for its police and fire employees under this section, then it may adopt either the provisions of this section, or KRS 95.762, 95.763, 95.764, 95.765, and 95.766, or it may adopt the provisions of KRS 90.300 to 90.420. A city meeting the population criteria of this subsection may adopt the provisions of KRS 90.300 to 90.420 for municipal employees who are not police or fire personnel.

(2) Any city may provide a retirement system for any of its employees, including police and firefighters, pursuant to KRS 90.400 or 90.410. If a city creates a retirement system for its police and firefighters pursuant to KRS 90.400 or 90.410, it shall establish a board of trustees for that system. The provisions of KRS 90.400 and 90.410 notwithstanding, a majority of the board shall be members of the retirement system elected by the members of the retirement system, except that if there are fewer than six (6) active and retired members of the fund, the board of trustees shall be composed of the mayor, city treasurer or chief financial officer, and two (2) employees appointed by the mayor, one (1) from the city police department and one (1) from the city fire department, who shall serve for one (1) year and until their respective successors are appointed and qualified. If all of the members of the pension fund are from one (1) department, no appointment shall be made from the other department. The board of trustees shall control and manage the retirement fund, for the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan. The board may contract with investment advisors or managers to perform investment services as deemed necessary and prudent by the board.

(3) A city meeting the criteria of subsection (6) of this section may adopt the provisions of KRS 79.080 or 78.510 to 78.852 for any of its employees, or either KRS 95.520 to 95.620 or KRS 95.767 to 95.784 for its police and firefighters. After adoption of the provisions of any of the statutes listed in this section, the city may not revoke, rescind or repeal these adoptions for any employee covered thereby.

(4) (a) Any of the following offices, positions, and places of employment, in the police and fire departments, may be excluded from the classified service: The chief of police, assistant chief of police, chief of firefighters and assistant chief of firefighters.

(b) Any classified employee in either department who shall accept an appointment and qualify as chief of police, assistant chief of police, chief of firefighters, or assistant chief of firefighters, shall be deemed to have received a leave of absence from the classified service for, and during the incumbency of, any of said respective positions. Should any such chief or assistant chief, cease to serve as such, the same classification and rank which he had prior to said appointment shall be restored to him.

(5) After August 1, 1988, no city shall create a new pension fund pursuant to this section other than by adopting KRS 78.510 to 78.852, or by adopting a deferred compensation program pursuant to KRS 18A.270 or a defined contribution or money purchase plan qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended. Any city which adopted a pension system pursuant to this section on or prior to August 1, 1988, shall participate in the County Employees Retirement System effective August 1, 1988.

(6) As used in subsections (2) and (3) of this section, "city" means only those cities that were previously classified as cities of the fourth and fifth class under the classification system that was in effect before August 1, 1988.

(7) Notwithstanding subsection (1) of this section, no city shall adopt a civil service system for any of its employees under KRS 90.300 to 90.420 or under KRS 95.761, 95.762, 95.763, 95.764, 95.765, and 95.766 during the months of November or December in any even -numbered year.

(8) Any city that creates a civil service commission pursuant to this section may repeal or amend the ordinance at the discretion of the city legislative body. The city legislative body shall not repeal any provisions of the ordinance governing the maintenance of a pension fund.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 31, sec. 16, effective July 15, 2016. -- Amended 2014 Ky. Acts ch. 92, sec. 140, effective January 1, 2015; and ch. 121, sec. 2, effective July 15, 2014. --Amended 1988 Ky. Acts ch. 11, sec. 11, effective July 15, 1988.

--Amended 1984 Ky. Acts ch. 177, sec. 6, effective July 13, 1984. --Amended 1982 Ky. Acts ch. 256, sec. 1, effective July 15, 1982.

--Amended 1978 Ky. Acts ch. 164, sec. 33, effective June 17, 1978. --Amended 1970 Ky. Acts ch. 26, sec. 1. --Amended 1966 Ky. Acts ch. 236, sec. 1. --Created 1942 Ky. Acts ch. 9, sec. 2.

Legislative Research Commission Note

(1/1/2015). This statute was amended by 2014 Ky. Acts chs. 92 and 121. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 92, which was last enacted by the General Assembly, prevails under KRS 446.250. . Acts 1988, ch. 11, Â§ 19, provides: "In order that city employees with a choice can make an informed decision on whether or not to join the county employees retirement system, Kentucky retirement systems shall conduct briefings for each affected pension system on the provisions of this Act. Each employee shall receive a written summary of the retirement benefits which the county employees' retirement system offers, and each employee shall be given the opportunity to attend an oral presentation. All such presentations shall be completed by October 15, 1988, and each affected employee shall make his decision by November 1, 1988. Failure of an employee subject to the provisions of this

Act to receive a written summary or to attend an oral briefing shall in no way invalidate any of the provisions of this Act."

## **95.762 Examination and qualifications of applicants for police and fire departments--Political discrimination forbidden --Guarantee of tenure --Decrease of personnel.**

(1) The commission shall require all applicants for appointments as members of the police or fire departments to be examined as to their qualifications to fill the office of policeman or firefighter, and as to their knowledge of the English language, and as to the law and rules governing the duties of policemen and firefighters. Every member of the police or fire department shall be able to read and write and understand the English language, and have such other general qualifications as may be prescribed.

(2) No person shall be appointed a member of the police or fire departments unless he is well known to be a person of sobriety and integrity, and has been and is an orderly, law abiding citizen, nor shall any person be appointed as a member of said police or fire departments on account of any political, partisan service rendered by him or on account of political sentiments or affiliations, or who is under twenty one (21) years of age or over forty (40), unless the applicant has had as much as five (5) years' experience as a regular policeman or firefighter and is not over fifty five (55) years of age. No member of the police or fire departments shall be removed or discharged or reduced in grade or pay for any political partisan opinion. The appointment and continuance upon the police and fire departments shall depend solely upon the ability and willingness of a person to comply with the rules of the said departments and to perform the duties of said departments. No appointment to or continuance as a member of a police or fire department shall be as a reward for political activity nor be obtained by political services or contributions to campaign funds.

(3) The examination and qualifications provided for in this section shall not apply to the members of the regular police and fire departments at this time, who have been continuously in the service for a period of three (3) years.

(4) Members of police and fire departments otherwise qualified under this law shall hold their positions during good behavior, provided, however, that the provisions of KRS 95.761 to 95.784 shall not prevent the said city legislative body from increasing or decreasing the number of policemen or firefighters, as may be deemed proper from time to time, and provided further, that in the event the said city legislative body decreases the number of policemen or firefighters, the youngest member in point of service shall be the first to be reduced and returned to the eligible list and to advance according to the rules and regulations of said department.

(5) The civil service commission may provide that appointments for initial permanent employment may be probationary appointments for a period of not more than twelve (12) months, after which probationary period regular appointments shall be given to all probationary employees who are deemed to be satisfactory by the respective appointing authority.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 31, sec. 17, effective July 15, 2016. --Amended 2000 Ky. Acts ch. 95, sec. 1, effective July 14, 2000. --Amended 1985 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 3, effective July 19, 1985. --Amended 1978 Ky. Acts ch. 128, sec. 3, effective June 17, 1978; and ch. 164, sec. 34, effective June 17, 1978. --Amended 1976 Ky. Acts ch. 159, sec. 2, effective March 29, 1976. --Amended 1974 Ky. Acts ch. 289, sec. 2; and ch. 386, sec. 22. --Created 1942 Ky. Acts ch. 9, sec 6.

### **95.765 Removal or reduction in grade --Grounds--Procedure--Suspension--Punishment.**

(1) No member of the police or fire departments shall be removed from the department or reduced in grade upon any reason except inefficiency, misconduct, insubordination or violation of law, or violation of the rules adopted for the departments. Any person may prefer charges against a member of the police or fire departments, which must be filed in the office of the mayor, who shall thereupon communicate said charges without delay to the legislative body. Said charges must be written, signed by the person making such charges and must set out with clearness and distinctness each and every charge. It shall be the duty of the mayor and each member of the legislative body, whenever probable cause appears, to prefer charges against any member of the police or fire departments whom he or she believes to have been guilty of any conduct justifying his removal or punishment in the interest of public order. The charges thus filed shall be written and shall set out with distinctness and clearness the charges made, and upon the hearing of any charges, as hereinafter provided, all said charges shall be considered traversed, and put in issue, and the trial shall be confined to matters related to the issue so presented. All charges against members of the police or fire departments shall be filed with the clerk of the legislative body, and within three (3) days after said filing the legislative body shall proceed to hear and examine said charges; provided two (2) days before said hearing the member of the police or fire departments, accused, has been served with a copy of said charges, and a statement of the day, place and hour at which and when the hearing of said charges shall begin. The person accused may, however, in writing, waive the service of said charges, and demand trial within three (3) days after said charges are filed with the clerk of said legislative body. The legislative

body will have the power to summon and compel the attendance of witnesses at all hearings or sittings by said body, upon subpoena issued by the clerk of said body, and served upon said witnesses by any officer authorized to serve subpoenas from any court of justice in the county. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The member of the police or fire department, the accused, shall have the right to have subpoenaed, in his behalf, any witness he may desire, upon furnishing their names to the clerk of said body, and the action and decision of said body on said charges shall be reduced to writing and shall be entered in a book to be kept for that purpose by the clerk of said legislative body, and the written charges filed in this matter shall be preserved and securely attached to the book containing the legislative body's decisions.

(2) In cases where the mayor or chief has probable cause to believe that a member of the police or fire department has been guilty of any conduct justifying removal or punishment, he may suspend said member from duty, or from both pay and duty, pending said trial, and said member shall not be placed on duty or allowed pay thereafter until the charges are heard by the legislative body. The said body shall fix punishment against a member of the police or fire departments found guilty of any charge under KRS 95.761 to 95.784, by reprimand or suspension for any length of time in their judgment, not to exceed six (6) months, or by reducing the grade, if the accused be chief or other officer, or by combining any two (2) or more of said punishments, or by removal or dismissal from the service of any such member of the police or fire department. No member of the police or fire department except as provided in KRS 95.761 to 95.784 shall be reprimanded, removed, suspended, or dismissed from the department until written charges have been made, or preferred against him, and a trial had as herein provided.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 31, sec. 18, effective July 15, 2016. —Amended 1976 (1st Extra. Sess.) Ky. Acts ch. 14, sec. 121, effective January 2, 1978.



# **APPENDIX XI**

## **CHAPTER 183**

### **AVIATION (Airport Safety and Security)**

#### **183.880 Establishment of safety and security department by airport board; oath by appointees**

The airport board created by a county containing a city with a population equal to or greater than twenty thousand (20,000) based upon the most recent federal decennial census, an urban-county government, or created jointly by a city of the first class and county is authorized to establish a safety and security department and appoint safety and security officers and other employees for the public airport for which it is responsible, to prescribe distinctive uniforms for the safety and security officers of the airport board, and to designate and operate emergency vehicles. Safety and security officers so appointed shall take an appropriate oath of office, in form and manner consistent with the Constitution of Kentucky, and shall serve at the pleasure of the airport board.

Effective: January 1, 2015

History: Amended 2014 Ky. Acts ch. 92, sec. 263, effective January 1, 2015. -- Created 1976 Ky. Acts ch. 300, sec. 2.

#### **183.881 Powers and duties of safety and security officers**

(1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing airport board. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:

(a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the airport facility of their respective airport board, and to protect all persons and property located thereon from injury, harm and damage;

(b) To enforce, and to assist officials of their respective airport boards in the enforcement of the lawful rules and regulations of said airport board, and to assist and cooperate with the law enforcement agencies and officers. Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective airport boards including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the airport board owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.



(2) Safety and security officers may exercise their powers away from the location described in subsection (1) of this section only upon the following conditions:

(a) When in hot pursuit of an actual or suspected violator of the law;

(b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section;

(c) When requested to act by the chief of police of the city or county in which the airport board's property is located;

(d) When requested to act by the sheriff of the county in which the airport board's property is located;

(e) When requested to act by the commissioner of the Department of Kentucky State Police;

(f) When requested to act by the authorized delegates of those persons or agencies listed in paragraph (c), (d) or (e) above;

(g) When requested to assist a state, county, or municipal police officer, sheriff, or other peace officer in the performance of his or her lawful duties; or

(h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.

(3) Safety and security officers appointed pursuant to KRS 183.110 and 183.880 to 183.886 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the airport board. Where desirable and at the discretion of the airport board's police officials, the airport board's safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.

(4) Safety and security departments created and operated by the airport boards shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.

(5) Nothing in KRS 183.110 and 183.880 to 183.886 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an airport board or otherwise.

Effective: June 26, 2007

History: Amended 2007 Ky. Acts ch. 85, sec. 187, effective June 26, 2007. -- Created 1976 Ky. Acts ch. 300, sec. 3.

**For Any Agencies not listed in this manual,  
please confer with agency or local legal  
counsel.**